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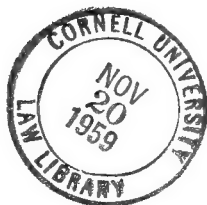
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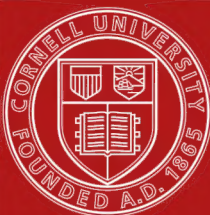
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A COMPARATIVE SURVEY
OF
LAWS IN FORCE
FOR THE
PROHIBITION, REGULATION,
AND
LICENSING OF VICE
IN
ENGLAND AND OTHER COUNTRIES

WITH AN APPENDIX GIVING THE TEXT OF LAWS AND POLICE
REGULATIONS AS THEY NOW EXIST IN ENGLAND, IN BRITISH
DEPENDENCIES, IN THE CHIEF TOWNS OF CONTINENTAL EUROPE,
AND IN OTHER PARTS OF THE WORLD; A PRECISE NARRATIVE
OF THE PASSING OF THE ENGLISH STATUTES; AND AN HIS-
TORICAL ACCOUNT OF ENGLISH LAWS AND LEGISLATION ON THE
*SUBJECT FROM THE EARLIEST TIMES TO THE PRESENT DAY.

By SHELDON AMOS, M.A.,

BARRISTER-AT-LAW AND PROFESSOR OF JURISPRUDENCE IN UNIVERSITY COLLEGE, LONDON;
AUTHOR OF "A SYSTEMATIC VIEW OF THE SCIENCE OF JURISPRUDENCE," THE
"SCIENCE OF LAW," "A PRIMER OF THE ENGLISH CONSTITUTION," ETC.

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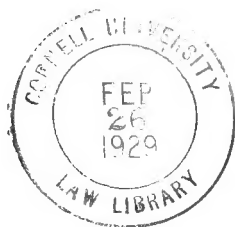
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PREFACE.



THE subject of this treatise encounters peculiar obstacles in the way of public and thorough discussion. It receives only scanty notice at the hands of public journalists. It can never form a topic of common conversation. It carries with it a reminder of shame, miseries, and wrongs which must be always distressing, and therefore instinctively shunned. One side of the subject, again, is appropriated for the most part by special members of a very special profession. On all these grounds it might be expected that laws and police regulations on the subject would resemble those plants which prosper best, or only, in the shade.

In no part of this treatise have I concealed the multiform and complex aspects of the subject before me, and I have taken pains never to step beyond the limited province of inquiry marked out for myself. The subject in its entirety includes—(1) A precise description of the laws and police regulations which now exist in different countries, and an inquiry into their logical import, their mutual relations, and their moral and constitutional significance ; (2) The truth of certain allegations as to the prevalence and importance of particular diseases,

and the scientific value of certain medical theories as to the possibility and the means of detecting, preventing, restricting, and curing those diseases ; (3) An account of the practical and detailed working of the laws and regulations in force, and of the modes in which they have been, and are now in fact, administered. This last head, of course, includes a critical examination of the facts and statistics which have been put forward by private persons, by public Commissioners, or by Governments, as evidence of the successful or unsuccessful working of the laws and regulations in question.

It is only the first of these three distinct branches of inquiry with which, in this treatise, I am concerned. Recognizing the political fact that certain laws and regulations exist, I confine myself to explaining their logical and legal import, and tracing their direct tendencies. If my method is a true one and fairly carried out, these tendencies will be equally indisputable (though more or less rapidly manifested), whether the medical facts and theories on which the laws and regulations rest are true or false ; whether the laws and regulations are, in practice, strictly complied with, or more or less abused ; and whether the general facts or statistics alleged in the treatises of private persons, or in the reports of Governments, are accurate or inaccurate, truthful or fallacious.

The discussion of the subject has been hitherto almost, if not quite, exclusively monopolised by members of the medical profession. In this country, at

least, it has been a genuinely humane instinct which has led such men as Mr. Berkeley Hill and the late lamented Mr. Acton to concern themselves with the least remunerative and honoured branch of practice, and to grapple with problems in the proper solution of which the outcast woman, often deserted by every comforter but the surgeon, has the most immediate concern. Mr. Acton, for his part, was of opinion that it was public lethargy and indifference in respect of this subject, far more than false opinion, that were to be dreaded. With a practical experience of the system as it is in Paris, he writes of it as there existing with scarcely disguised loathing and contempt. He cherished a hope that the English Acts might avoid the obvious scandals of the Continental system, but he evidently treated them as, on moral grounds, at the best a somewhat hazardous experiment.* If those Acts succeeded in fixing public attention on the subject, and in finding a substitute for themselves in a series of unobjectionable and well distributed measures directed to the different branches of the evils to be remedied, he would, probably, have been satisfied that those Acts had done their work.

The time has now come when the subject can no longer be solely relegated to one particular profession. Its legal, constitutional, and moral aspects must be keenly scrutinized and exhaustively searched out by the members of all professions. The best comparative methods, too, must be resorted to for the

* See *post*, pp. 110—112, 217, 260.

purpose of making the experience of every country contribute to the knowledge of every other.

Apart from the obvious advantage which the comparative method in legal studies always has in tracking out tendencies and separating what is accidental from what is essential, there is a peculiar fitness, if not necessity, in treating the present class of laws from an international standing-point. So far as these laws have medical objects in view, it is admitted that true success can only be hoped for from unlimited extension, uniformity of method, identity of national aims, and active international concert. Thus, though each nation has a problem of its own, dependent on its peculiar conditions and historical antecedents, still the main issues are decided for all nations when conclusively decided for any one

There is, indeed, a singular sameness in this part of the law of European countries. Systems of law, different in every other feature, are one and the same here. If these laws rest on a sound political foundation, it is only by the universal adoption of an uniform code in all countries, assisted by international conventions, that their best products can be surely reaped. But if these laws are unsound, their presence in any one country must only aggravate the evils existing in the bordering territory, as well as furnish a seductive example or a standing menace.

It seems, however, that the huge edifice of State licensed vice is already tottering to its fall. In Paris every element of political disaffection and of popular

aspiration for a free press, for a free right of public meeting, and for security to the person as against irresponsible police control, is now gathering round this single question. Switzerland, Italy, Germany, and even Belgium have been, or are, all with different degrees of clearness of vision and strength of purpose awakening to wish and to make themselves free. A system which has grown up in silence and darkness may, perhaps, not long hold its ground in the glare and the heat of public discussion. In a few years what value still attaches to the present treatise may be only historical; though when the time comes that it records what has been and no longer what is, the work may still serve to illustrate and enforce lasting principles of just government by minutely recalling the story of the great "falling away" and "strong delusion" which led to those principles being forgotten or neglected by almost every State in the world.

Wherever, for the purpose of explaining or illustrating the true import of a law or regulation, I have had occasion to cite direct testimony as to its practical operation, I have exclusively resorted to the testimony either of official persons engaged in administering the system, or of persons who are presumed to be opposed to my own views. Such testimony, being in the nature of admissions, is beyond the reach of cavilling objections.

The account of the Laws and Regulations in different countries of Europe, as given in the Appendix, will serve, perhaps, even better than the text of the work

itself to impart an exact knowledge and appreciation of the licensing system in all its forms, and to afford materials for a correct judgment upon it. This account is, of course, intended to be only illustrative, and by no means exhaustive.

An exact recital of the Parliamentary history of the English Acts from 1864 to 1869, which is very imperfectly known and often inaccurately referred to, is given in the Appendix, and will, it is hoped, help the conduct of the controversy in this country.

The account of the earlier practice of licensing in London between the years A.D. 1161 and A.D. 1545, and of the prohibitive laws since, as given in the words of Stow, Camden, and Fuller, and later writers, is not included for the sake of its undoubted historical interest. Some, indeed, of the arguments adduced by Fuller on both sides of the controversy are now confessedly obsolete. But the strong, clear sense and bracing moral tone of all the older writers is a refreshing contrast to much that is written and spoken on the subject at this day; while the arguments used, on one side, at least, are often of an importance as ineffaceable for all ages as the rest of this work demonstrates them to be for all countries.

S. A.

9, KING'S BENCH WALK,
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- Annual Report for 1875 of Captain Harris, Assistant Commissioner of Police of the Metropolis, on the operation of the Contagious Diseases Acts.* Printed in June, 1876.
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- Publications of the National Association for the Repeal of the Contagious Diseases Acts.* 2, Westminster Chambers, London.
- Publications of the British, Continental and General Federation for the Abolition of Government Regulation of Prostitution.* 383, Park Road, Liverpool.
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- Hansard's Parliamentary Debates,*
- Statutes at Large and Parliamentary Papers.*

A

COMPARATIVE SURVEY

OF

LAWS FOR THE REGULATION OF VICE.

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CHAPTER I.

CHAP. I.

INTRODUCTION.

THERE are many indications that the problem of the true relation of the State to sexual vice is becoming the subject of an exact and critical treatment which is entirely new. One of the chief questions which formed the subject of a variety of important communications and of an eager discussion at the International Medical Congress at Paris, in 1867, was, "Whether it is possible to propose to the different Governments some efficacious measures for restricting the propagation of venereal diseases." The International Medical Congress of Vienna, in 1873, taking up the line of the International Medical Congress of Florence, in 1870, not only agreed to an elaborate report aiming at the generalisation and enforcement of the laws existing in different countries for the prevention of venereal diseases, but prepared an analytical draught of an International Convention in pursuance of which the laws of all countries on that subject might be assimilated.

PARIS CON-
GRESS, 1867.

VIENNA, 1873.

The International Congress at Brussels, in 1875, again took up the subject of the State regulation of prostitution, and in the course of the report which opened the proceedings, M. Warlomont, the general

BRUSSELS,
1875.

- CHAP. I. secretary, took occasion to quote from the work of M.
M. MIREUR. Mireur, of Marseilles, the words, "If all nations were
" more fully penetrated with a sense of the duties which
" the protection of health and public morality imposes,
" and could agree by common consent to make mutual
" concessions for the purpose of instituting measures of
" general security, we should slowly see this plague,
" disastrous as it is for the whole human race, disappear
" from the list of social calamities." M. Warlomont,
alluding to the Belgian practice added, "If the same pre-
" servative measures which we ourselves have adopted
" prevailed elsewhere, the only foe we should have then
" to encounter, importation, would instantly vanish."
At the special discussion of the subject, M. Vleminkx,
of Brussels, expressed a belief that the free range of
prostitution in England constituted a danger for the
Continent. "Hygiene ought to be international, and
" he invited the joint action of all nations."
- ENGLISH
ACTS OF 1866
AND 1869. Furthermore the English Contagious Diseases Acts
of 1866 and 1869 are not only matters of impassioned
parliamentary debate each session, and rank among
the most heated topics of dispute at contested parlia-
mentary elections, but they have arrested the attention
of the most prominent Continental writers on the
subject, and have drawn from them the most con-
tradictory criticisms. While M. Lecour, the Chief of
the First Division of the French Prefecture of Police
(" *La Prostitution à Paris et à Londres*, ed. 1872, p.
265), speaks of them as being "curious to analyse by
" reason of the timid restrictions with which they
" abound," Dr. Jeannel, of Bordeaux (" *De la Prostitu-
tion dans les Grandes Villes au dix-neuvième Siècle*,"
ed. 1871, p. 485), says that the English, "after having
" meditated upon our principles, have perfected our
" practice; they have not servilely imitated our
" examples; they have been inspired to approach
" nearer than we to the absolute ideal of what is good ;
- M. LECOUR.
- DR. JEANNEL.

“ and while our national vanity might have tempted us
 “ to reproach them for plagiarism, our conscience must
 “ compel us to recognise them as our rivals and our
 “ models. We shall now have to profit by their
 “ institutions just as at the end of the Crimean war
 “ we were compelled to admire the military com-
 “ missariat which, at the commencement of the cam-
 “ paign, we could only look upon with pity.”

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On having recourse to the copious and erudite literature which the subject is calling forth on the continent of Europe, in America, and in this country, it will be found that very deep differences of opinion prevail in reference to almost every point at issue, and that, even among the patrons of active legislation, the mutual recriminations of the police and the doctors are almost as loud and persistent as the charges alleged by the opponents of the legislation against its supporters. Furthermore, the arguments upon which the legislation is defended are internecine, one supporter using a class of reasoning directly repudiated by another, or holding firmly to some one feature, as indispensable to any scheme of legislation of the sort, which, in the eyes of another, is either superfluous or noxious. Thus M. Mireur,* of Marseilles, bases an elaborate system of regulated prostitution on the responsibility of brothel keepers, and on the police control of brothels and of their occupants. He would abstain from interference of any sort with prostitutes elsewhere, so long as they observe the common regulations for keeping order and decency in the street. He argues that, so long as an opening for secure indulgence is provided by the State, it is at a man's own peril that he does not avail himself of the security publicly guaranteed. He evidently holds it to be no function of the State absolutely to prevent at any cost the

M. MIREUR.

* “ *La Syphilis et la Prostitution dans leurs rapports avec l'Hygiène, la Morale, et la Loi.*” Paris : 1875.

CHAP. I. spread of venereal diseases, nor, at any rate, to do so with an undue sacrifice of public liberty. The object of his method of legislation is the provision of a sufficient supply of healthy women to all male citizens who require them. He seems to regard the right to such a provision as one of the inalienable "rights of *man*."

DR. JEANNEL. Dr. Jeannel, on the other hand, in common with most other medical authorities on the subject, regards the absolute arrest (if possible) of contagion to be the true object of the legislation, and thus he would give the amplest possible power to the police in dealing with "clandestine prostitutes" "The repression," says Dr. Jeannel (p. 620), "of clandestine prostitution is of the "highest importance. All administrative measures, all "sanitary measures which can be prescribed in order "to prevent the scandals and dangers of public "prostitution and the propagation of syphilis, must "become illusory if the police are neglectful in what "concerns clandestine prostitution."

M. LECOUR. M. Lecour (Chief of the First Division of the Prefecture of Police at Paris) has his complaint to make against the doctors. He says (*De l'état actuel de la Prostitution Parisienne*, Paris, 1874, p. 47), "In "their works on prostitution, the doctors take care to "avoid touching in a precise way on this matter of the "original arrest; they hardly ever say a word about it, "whether they are speaking of making inscriptions on "the register or of committing to the hospital. One "would think that measures of this sort, which often "enough arouse resistance and present the utmost difficulty of execution, were easily executed with very "slight effort and by means of a simple injunction. It "is as well that people should understand that it is only "by an original arrest that all the succeeding steps "become possible." And in a preceding passage (p. 43), M. Lecour says, "I have the greatest respect for medical "science: so it is painful to see it occupying itself on a

“ field which is not its own, and where it runs the risk of going astray.” And, speaking of Dr. Jeannel’s comment on the action of the special police of Paris, M. Lecour (p. 24) plaintively asks, “ Why will Dr. Jeannel, with his special and uncontested competency in his own line, thus venture himself on legal ground which is so little familiar to him ? ”

MR. ACTON.

Mr. William Acton, again, in his important treatise on “ Prostitution considered in its Moral, Social, and Sanitary Aspects,” shows himself fully alive to all the demoralising effects of the Continental systems ; and, in fact, a considerable part of his work is taken up with the attempt to prove that the English system is not open to similar objections. How far the attempt is a successful one will appear further on. It is an honourable trait in Mr. Acton that he never conceals his conviction that it is the voluntary profligacy of men which is the chief and immediate cause of prostitution ; and when his eagerness to combine incompatible advantages leads him to be logically inconsistent, he prefers being so to making any apology for male immorality. Had he lived, his sensitive morality, his concern for the welfare of the prostitute, and his medical intelligence must have combined to lead him to see that the English Contagious Acts are only a dangerously disguised form of the Continental system, and that their existence can only retard, instead of advancing, the solution of the problem.

The discrepancies of opinion between medical authorities as among themselves, between medical authorities and intelligent police officials, between foreign and English authorities, all point to the importance of subjecting the prevalent relations of the State to prostitution in European countries to a severer critical test than they have yet undergone. The subject has been hitherto handled almost exclusively by doctors, and it has naturally followed that the value attached to their medical experience and often truly philanthropic inves-

CHAP. I. tifications has imparted to their suggestions for changes in the law an amount of authority out of all proportion to its intrinsic worth. The expediency of making or altering a law which (as every law does) affects public liberty at some point or other, is always a matter demanding an anxious balancing of rival considerations; and it is those persons who, by their habits and predispositions are the most likely to keep some one end in view to the neglect of every other end who, as a class, are the least to be trusted in the delicate task of adjusting the scales.

FUNCTIONS OF
MEDICAL
MEN.

Medical men are rightly presumed to be conversant with morbid physiological symptoms and conditions, and it is their concern and duty to reduce the symptoms and to alter the conditions. In the case of all animal and most human diseases, the conditions are either not at all, or only remotely, connected with moral causes of a directly alterable kind. But the diseases which follow from ill-regulated sexual impulses are more than all others directly due to moral causes of a directly alterable kind, which, therefore, must not be recklessly tampered with. These causes may be altered either for the better or the worse; they may be indefinitely magnified or completely effaced. Thus, when the physician invites the legislator to help him in exchanging morbid physiological conditions for healthy ones, the legislator is entitled to insist that none of the machinery employed shall aggravate, by ever so little, the immoral causes which produce the physical unhealthiness; or, still more, which render the time of their complete effacement increasingly remote. How far these immoral causes can be themselves beneficially operated upon by law, and how remote is the period of their obliteration may be matters as to which each person's opinion will differ from that of his neighbour. But the legislator is entitled and bound to subject every suggestion for sanitary legislation to the test—(1) whether it directly operates so as to aggravate

the immoral causes; and (2) whether it defers to a more distant period the epoch of perfect moral health.

It is, no doubt, earnestly attempted by medical writers on this subject to vindicate their exclusive competence to deal with it by representing the immoral causes, that might seem to perplex its consideration, as being, for any modern State, and within moderate limits of time, fixed and unalterable. Were this so, of course the path of sanitary legislation in this matter would be largely simplified; the chief remaining problem then would be concerned with the amount of public liberty which it was justifiable to sacrifice in pursuit of the ends in view, and with the probable adequacy of the machinery proposed in order to attain those ends. Of course, a number of difficult questions are thus still left open for discussion; but, were no moral interest whatever at stake, the problem would not be a more intricate one than many other problems in the field of sanitary legislation.

This exclusion of the moral aspects of the question—so indispensable for the fluent treatment of the subject by medical specialists—is attained in more ways than one. Either (1) a theory is advocated that prostitution always exists and always will exist in a civilized country; and to an extent bearing a proportionate relation to the population, wealth, and general external circumstances of the country; or (2) it is admitted that prostitution may be indeed modifiable, like all other moral evils, such as drunkenness and cruelty, but at such a slow and uncertain rate that it is, on the whole, expedient to treat it as practically unalterable, so as to leave the course free for such physical and legislative experiments as may be, from time to time, resolved upon; or, lastly (3), it is not denied that prostitution may admit of great ameliorations in the future, but the prospect of acting directly and decidedly on its grosser physical concomitants seems so attractive that, by force of mere inattention or moral apathy, the per-

EXCLUSION OF
MORAL AS-
PECTS.

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plexing causes of it are left just as much out of account as if they did not exist.

All these views will be found to prevail among the writers on the subject in different countries, and often in different parts of the same treatise. The notion of a permanent adjustment of prostitution to all the other physical circumstances of a country will be found to prevail especially among the leading French writers, though not always expressed in words. The general expediency of treating prostitution as if its amount at any time and place were unalterable seems to have been the view of the late Mr. Acton, though held and professed by him with considerable misgivings. The third view, which proceeds from mere medical fanaticism combined with moral inertia, is that of the rasher class

DR. VINTRAS.

of pamphleteers, such as Dr. Vintras ("Prostitution in London and in New York"), who says, "I have avoided in the following pages the discussion of principles which belong more properly to moralists than to medical men." Nevertheless, Dr. Vintras and his school generally do not neglect to push in an argument based upon purely moral considerations so often as they think it likely to tell in favour of the adoption of their recommendations.

The second and the third of these views, though they will probably always be reproduced in the treatises of physicians to whom moral facts are merely troublesome and disturbing phenomena, will not commend themselves much to serious politicians. These will not hold that health must be promoted even at the expense of national virtue; nor that a sacrifice, however minute, of public morality, may properly be encountered in order to attain any ulterior object whatever, however salutary. The real matter of controversy concerns the truth of the first of the above-mentioned views, that is, that, given the population, the wealth, the education, and general social circumstances of any country, the

amount of prostitution in that country is a fixed quantity which can only vary as those elements vary, and which no moral or social improvements can reduce below a definite, though not always assignable, limit. The supporters of this view reach their conclusion in a variety of different ways, and express it with different degrees of satisfaction or reluctance. Prostitution has, indeed, on the Continent become, through the lengthened State recognition it has received, so implicated in the manners and sentiments of society, and has called forth such an assemblage of customs and institutions which may be said to subsist upon it, that a Continental writer may almost be excused for being unable to picture to himself a society in which male profligacy and a public provision for it are not ineradicable features. It is almost impossible to find in the treatise of a Continental writer on this subject a single passage in which male vice is even distantly alluded to as other than a settled quantity, as deserving of opprobrium, or as capable of effective check. Among English and American writers the same tone has of late (but with far less excuse) begun to manifest itself, though much of Mr. Acton's work presents a creditable exception to it. The grounds of this opinion must be examined more carefully.

It is, no doubt, true that as population increases and wealth is accumulated, rather than equally distributed, a larger and larger class of men find themselves unable to marry with prudence, or are indisposed to marriage, or are induced to defer it till middle life, or make ill-assorted unions, based on some other consideration than natural trust and affection. At the same time, a larger and larger class of women find themselves excluded, by the growing competition for employment, from the chance of earning a livelihood and thus are gradually pressed down to a stage only one degree removed from pauperism. The first class of facts

CHAP. I. provides male profligates, the second class of facts supplies them with prostitutes. So far, all competent observers must be at one.

But there is one element in the calculation which has, in the above statement, been wholly left out of account; and it is the most important, because the most directly modifiable. It is not contended by anyone that, because circumstances may tempt men to be vicious, therefore, they are compelled to be so. The dignity of man's nature would resent the imputation. What presents temptation to one man does not present it to another similarly solicited; and both individual persons and society can do much to control, and even to banish, the sources of temptation. Certainly it will not be denied in England and America, at least, that education, home influences, religious convictions, and, hitherto, sound public sentiment and law, can do very much to deliver large classes of men otherwise surrounded with circumstances favourable to immorality from so much as a thought of succumbing to it. And if this is possible for many, why not for most, or even for all?

ALLEGED
"NECESSITY"
OF VICE.

It may be, however, that a cautious philanthropist or practical statesman can never look confidently forward to a day when no stray offenders, in one way or another, will contrive to obstruct efforts for good; and some may be far less sanguine in this matter than others. But for those who spend their days in rescuing the endangered, in reducing temptations to inebriety, in enlightening ignorance, in quickening moral sensibility throughout the community, to believe that, as wealth and population advance, cruelty towards women and licentiousness must for ever evenly advance with them, would be a creed as inconsequent as it is revolting. If, on the other hand, it be true that cruelty towards women and licentiousness must decrease as true civilisation increases, then all the loud assertions about the "neces-

sity of prostitution," which means the necessity of male profligacy, come to nothing. That cannot be allowed to be "necessary," in any sense, which every good influence is being uniformly and hopefully directed to diminish and annihilate. There is no better reason why there should be nurtured a fixed class of male profligates than why there should be indulgently fostered in the heart of the State a class of house-breakers or brutal abusers of the lower animals. It is just against "necessity" of this sort that every moral energy in the State has, from first to last, to be unceasingly directed. It is in the amount of the victories of the State over such apparent "necessities" that it exhibits any degree of civilisation which is worth having.

The habit of regarding vice of any sort as necessary, fixed in quantity, or invariable within certain limits, not readily assigned, is the more noxious, inasmuch as it becomes one of the prime agents in perpetuating, and, so to speak, consolidating the practice of vice. This is most of all true in respect of the finely organized sentiments which determine the true relations of men and women to each other. These sentiments depend for their truth and health upon an accurately apprehended notion of the subordination of the material to the spiritual constitution of human nature. This notion will be generally instinctive rather than conscious, and express itself more in the manner and conduct of life than in the spoken word. But this notion, though "natural" in the truest sense, and therefore easy to be received and retained, is, nevertheless, from its very delicacy, easily obscured and marred. It needs all the persistent teaching of good early discipline, good examples, good resolutions, good laws, and good personal conduct to drive home the lesson that "man shall not live by bread alone." A thousand influences are hourly teaching the opposite lesson, and it is not without a steady struggle both in individual men and

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INFLUENCE OF
PUBLIC OPINION.

women, and in society at large, that the everlasting truth is kept uppermost.

Among the influences which give force to doctrines either of the degradation or of the depravity of man, none are more potent than those due to public opinion. This subtle agency of public opinion does not owe its power to the width, the representative character, nor still less to the inherent worth of the opinion itself. It owes its power rather to the nearness of the public concerned, and to the concentration of its movements. Thus, to a school-boy, his school-fellows, at least as much as his masters, and far more than his parents, supply the gauge of right thinking and right acting. To a workman, his fellow operatives; to a soldier, his comrades; to a lawyer or a doctor the members of their several professions; to a whole people, their public writers, their magistrates, and their legislators, determine the standard not only of right or wrong conduct in the greater crises of action, but of just or unjust, benevolent or harsh, becoming or unbecoming, thinking, feeling, and acting at every moment of life. Of course, there are those who do not bow down to images of this sort, and who test the opinion of a few near at hand by reference to the opinions of a vast multitude, gathered out of all countries and times. But, whether for good or for evil, the sentiments of the vast majority will be chiefly affected by the loudest and clearest of the voices nearest at hand; and their own moral code will be strict or lax according as the moral code of others in their neighbourhood and in their country seems to be so.

The bearing of these remarks on the present subject is obvious. Vice grows quite as much by moral as by material opportunities. A clear and broadly diffused sentiment in favour of purity is one of the strongest fences against impurity; while, on the other hand, public callousness, not to say laxity, on the subject is a vehement stimulus to vice. In the one

case, temptation is contemplated with shuddering, is controlled, evaded, and finally banished. In the other case it is tampered and toyed with, and at last without reluctance succumbed to. By the operation of the principle which determines, as above described, the action of public opinion, the vicious support the vicious and ease the way for the accession of new recruits to their ranks; and it needs all the energy of the aggregate of the pureminded to construct a rival sentiment which shall act in exactly the reverse direction. It need then hardly be pointed out that, whether in the language of law or of literature, all formal recognition of social vice, as anything but an evil determinedly to be combated at every point as a gross, temporary, and unnatural excrescence on civilized society, buoys up the interested public opinion already pledged to countenance it, and affords to vice itself the most direct and unremitting stimulus.

It is, no doubt, said by the advocates for the State regulation of vice, that they neither encourage nor legally punish it, but merely recognise it in order to restrict some of its obvious physical consequences, especially as affecting innocent persons. The merits of legislation cannot, however, be judged by the motives of the more high-minded of those who originate it, nor even by such of its superficial effects as alone admit of statistical evaluation. These merits must be judged by reference to the well-known operation upon man's nature of causes of a perfectly familiar kind. The whole system of regulating vice, by ascertaining the conditions under which it may alone be indulged in without infringing police rules, gives a transparent legality or "righteousness" to it, when so pursued, which no counter explanations nor apologies can ever dissipate. It seems to be always forgotten by those who advocate these systems that there are sufficiently strong incentives to vice already existing which it is the hardest effort of civilization to counteract.

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Legislation which touches the subject at all must be judged by its effect in the way of strengthening or weakening these incentives. If it be true (as there is good ground for supposing it to be) that a purely repressive system is nugatory, or only aggravates the evil in some directions while appearing to reduce it in others, such a system, at the least, gives no apparent encouragement to vice, but the reverse. A system of what has been called *laissez faire*, which has, up to a few years ago been pursued in England, and according to which prostitution and all that belongs to it only fall under the cognizance of the general law of the country, certainly imparts no apparent encouragement or real impulse to vice, nor expresses any public sentiment as to its necessity, its legality, or its propriety. It may have other shortcomings, the remedy for which deserves serious consideration. But the licensing system in all its possible forms gives public expression to the fact that there are forms of licentiousness which are in strict accordance with law. Because law is too impotent to punish, there can be no reason why it should go to the other extreme, and protect and encourage.

In most ways law, with its cumbrous machinery for interpretation and procedure, is a poor substitute for morality, and can go only a very little way in enforcing moral rules. But the case of licensing prostitution is the only one in Christian countries in respect of which lawgivers have been so shameless as knowingly and publicly to contradict their own professed moral code. In all other cases it is admitted that where law cannot keep pace with the promptings of morality, it must, at the least, help, substantiate, and never contradict, common moral maxims. The criminal law of every country, and the equitable jurisdiction gradually developed in the English Court of Chancery, are familiar illustrations of this natural and beneficial career of law. It is only in countries where a system of

licensing and regulating prostitution prevails, that, while the decrees of morality are held to be absolute in favour of purity, the decrees of law are equally decisive only when impurity is practised outside certain arbitrary limits assigned. Within these limits a great State machinery, constructed at enormous cost, exists for determining the persons for whom, and the places, the times, and the conditions within which, profligacy may be freely indulged in without risk of interference by law. Vice is anticipated, provided for, paid for, and hedged round with peculiar securities, by the State itself.

It is, again, important to repeat that it is not in the mere removal of legal or physical obstacles to vice that the immorality of such a system consists. It is in the effect which such stupendous efforts to protect profligate men and their relatives from the obvious consequences of their deliberate acts must have on public opinion that the main mischief consists. Such efforts suppose that these men are more worth protecting than other wrongdoers, and their families more than the families of other wrongdoers. In other words those efforts disclose a scarcely disguised belief that sexual immorality is no wrong-doing at all; and, therefore, like other indifferent acts, must be protected, if not positively countenanced by law.

Nothing is more indicative of the lurking sense of shame which even legislators feel when addressing themselves to this subject than the indisposition they have generally evinced to place the system of licensed prostitution among the national laws. In many countries, indeed, the penal code gives the police power to frame the requisite regulations. The English nation is the only one which, in the limited and partial form of the Contagious Diseases Acts, has yet had the courage or the audacity to launch the system in all its essential details in the form of a public statute. But those who

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defend that system most strenuously in the House of Commons are fully aware of the difficulties by which they are surrounded, and of the public account which must be given to the awakened moral sensibilities of the people.

COL. ALEX-
ANDER.

In the debate of June 23rd, 1875, Colonel Alexander, in the course of his speech in support of the Acts, said, "My hon. friend, and those who think with him, assert that those Acts sanction, legalise, and, in fact, recognise the necessity of prostitution. Now, sir, if I was of that opinion—if I thought that such was the effect of the Acts—I would not, for one, utter one syllable in their defence. On the contrary, I would use my utmost endeavours to have them erased from the statute book."

MR. HARDY.

Mr. Hardy, the Secretary of State for War, said, "These Acts have in their necessity that which is repulsive to many of us. I can say, when they were first introduced, my instincts were against them."

MR. MASSEY.

Mr. Massey, the Chairman of the Royal Commission of 1871, said, "So far as the medical testimony was concerned, there can hardly be a doubt that the system of the periodical examination was the most efficacious for the restriction of diseases; but, on the other hand, there were many considerations of morality and decency which rendered the Commission unwilling to recommend it."

FRENCH PE-
NAL CODF.

It is one of the most constantly disputed points among French writers, whether the present police system of regulating prostitution in Paris and other large towns does or does not derive its whole force from the penal code. The only passages in the code at all applicable are those commencing at clause 330, and referring to offences against public decency, and the last clause (484) in the code, which provides, that "in all matters which are not governed by the present code, and which are subject to special laws and regula-

“tions, the courts and tribunals will continue to observe these as before.” Parent-Duchatelet points out an anomalous consequence of relying on this last-mentioned clause, namely, that the “special laws and *réglations*” on the present topic would be found to be, with the exception of some recent municipal by-laws, mainly prohibitive and repressive.* Thus the police would be bound by one class of laws to prohibit, and by the other, to permit. Parent-Duchatelet, with the other later writers, urgently implores the legislature to incorporate the whole system in the general law of the country, and they complain of the illogical imbecility of refusing to do so. The real reason of the refusal is probably threefold. First, where the system is incorporated with the general law, its flagrant immorality and its contradiction of the latent morality of the rest of the law come into distinct relief,—and, most of all, in countries which have a written code. Secondly, when once public attention is fairly aroused, the morality, justice, and expediency of the system could not be defended, for the purpose of introducing a new law, in the debates of a public national assembly. Thirdly, it will be seen in a later chapter that the system can exist only under the condition of substituting government by irresponsible police for government by law and by courts of justice. It is one thing to acquiesce in this as a silent growth, the result of gradual usurpations: it is quite another thing to advocate it in a popularly constituted assembly, and to parade it in a statute book or code.

While giving, however, all credit to the more honest or unthinking propounders of this legislation, it will scarcely be questioned that there are some who advocate it on grounds which are miserably selfish, dastardly, and cruel. These persons almost openly profess that man must have his irregular passions gratified at

* See also Jeannel, p. 301.

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any cost, and that, if need be, every generation must supply its holocaust of women to gratify them. A process of natural selection, determined by poverty, and further controlled, it may be, by police and surgical regulations, will regulate the quantity and manner of the supply. It may even be (in the opinion of these persons) not indecorous to spare a passing sigh for the poor unfriended victim demanded for man's lust, and ever and anon sacrificed as a substitute for the good and the rich. This state of mind cannot be represented more adequately than by citing the language of Mr. Lecky, the historian of "European Morals" (vol. ii. p. 299): "Herself the supreme type of vice, she is ultimately the most efficient guardian of virtue. But for her, the unchallenged purity of countless homes would be polluted, and not a few, who, in the pride of their untempted chastity, think of her with an indignant shudder, would have known the agony of remorse and of despair. On that one degraded and ignoble form are concentrated the passions that might have filled the world with shame. She remains, while creeds and civilisations rise and fall, the eternal priestess of humanity, blasted for the sins of the people."

MR. LECKY.

It is scarcely possible to comment with ordinary self-restraint on such a mischievous abuse of rhetoric as this whole passage displays. It exhibits in its most intense form the living genius of the whole class of legislation which is now being reviewed. The picture it presents is that of an endless vista of dissolute husbands in the midst of happy, wealthy, and virtuous homes; husbands, wives, and children all contentedly subsisting by virtue of a daily immolation of outcast and down-trodden women. The picture is as false as the conception of humanity is unworthy. Bad men do not fill the world less with shame because they are cruel and cowardly enough to sacrifice to themselves the poor and the weak in the place of the rich and the strong.

Virtue and chastity are robbed of their meaning when they can be only purchased and secured at the price of another's degradation. CHAP. I.

The following extracts from an address on surgery, delivered before the American Medical Association at Detroit, in the United States, by Professor Gross, of Philadelphia, in 1874, under the title, "*Syphilis in its relation to the National Health*," exhibit similar views in their latest form, as they are found to prevail among some sections of the medical world, and also indicate the policy by which it is sought surreptitiously to adjust society in conformity with such views:—

"Sexual intercourse is an imperious necessity, implanted in our nature, for the gratification of which man will brave any danger, however great, to health and even life. Whether descended from the ape, or whether created in the image of his Maker, he is still an animal, who, but for the humanising influences of civilisation and Christianity, would be more savage and degraded than the wildest beast of the forest. If this postulate be admitted, it requires no argument to prove that *prostitution is an essential necessity of society*."

* * * * *

"One very great difficulty in regard to the practical operation of a licensing law would be the framing of a bill of an entirely unexceptional character. Great judgment and care would be necessary in the selection of a proper title; if this be offensive, or too conspicuous, it would at once call forth opposition. My opinion is that the entire subject should be brought in, as it has been in England, under the head of the 'Contagious Diseases Acts,' a phrase not likely to meet with serious objection, as it would serve as a *cloak* to much that might otherwise be distasteful to the public. The word 'licensing' should not be used at all in this connexion, as its

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“purport is liable to be misunderstood, many persons
 “supposing that the ‘licensing law’ is designed to
 “encourage and extend prostitution.

* * * * *

“In reflecting upon this subject, I am sometimes
 “inclined to believe that prostitution is the normal
 “condition of the human race; or if we reject this
 “proposition, so offensive to good taste, it must be
 “admitted, beyond the possibility of doubt or cavil,
 “that the practice is so interwoven with our social
 “system as to form an essential part of it.”

It is proposed in the following pages to review the laws, regulations, and institutions which exist in the chief European countries for the purpose of bringing prostitution under the joint control of police and medical authorities, and thereby of at once regulating, licensing, and protecting it. The method here adopted is to consider the whole system by taking each of its essential leading features in succession, and examining the various aspects they present in different countries. It is not the purpose of this inquiry to investigate the merits of competing medical theories, to balance rival statistical results, or to attempt to adjudicate upon the evidence alleged on either side in reference to disputable questions of fact. The whole of the examination here entered upon lies within the limits of a vast assemblage of hitherto darkly-shrouded, but none the less simple, laws and police regulations, the existence of which admits of no contention, and the import of which is plain to every one when once they are brought into the light of day and laid side by side with one another.

The result will be to show that the system of State-licensed and regulated prostitution, from the point of view of all its advocates, can only be worked by

processes and under conditions which admit of only the slightest modifications, of scarcely any import to public liberty or morality; that the actual modes of constructing and working the system in different countries are, in almost the minutest details, monotonously the same wherever it exists; that the apparent exception, in respect of some of the aspects of the system, presented by the English statutes on the subject, is apparent only, and wholly disappears on a closer examination; and, lastly, that even if the laws and regulations on the subject were as effectively and as justly put in force as their most ardent and honest supporters demand, still the medical achievements aspired after could only be won by a wholly disproportionate sacrifice of public liberty and by the gradual blasting of public morality; while complete medical success, were it ever attainable in this way, would be only purchaseable at the price of national ruin.

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CHAPTER II.

PROVISIONS FOR REGISTRATION AND MEDICAL CONTROL.

THOUGH it will be seen that the devices for regulating and licensing prostitution present various forms in different countries, and a number of untried devices are from time to time suggested on every hand, yet they one and all follow—and indeed must needs follow—a common type, and differ from one another in points which can only be reckoned as of subordinate detail.

PROFESSED
OBJECTS.

All the possible objects which the different varieties of the system of State regulated vice are devised to effect, are usually alleged to be—(1) the restriction and mitigation of venereal diseases; (2) the removal of temptation from, and the securing of order and decency in, the public streets and thoroughfares; (3) the prevention of juvenile prostitution, and the reformation of prostitutes generally. It is the invariable and instinctive policy of those who defend the system under consideration to group these distinct objects closely together in order to convey the impressions, first, that they themselves are desirous of attaining every one of these objects in an equal degree, and not one more than another; and, secondly, that the three objects must either be pursued in concert, and by machinery adapted equally to attain all of them at once, or they must all be abandoned together. It is no doubt true that the actual varieties of the system in existence do,

in fact or in appearance, mostly address themselves to all these evils at once, and the result upon the public mind is (as was intended) to suggest the idea that all these evils must be grappled with by one and the same machinery or not at all, and that no other machinery than that now at work can be devised for grappling successfully with any one of these evils.

The whole of the argument intended to be enforced rests upon fallacious appearances which are ingeniously marshalled so as to deceive public opinion, but are in no way conformable to facts. It is not at all necessary in itself that there should exist any one kind of legislative and administrative machinery by which at once venereal diseases could be moderated, disorderly conduct in the public streets prevented, juvenile prostitution arrested, and prostitutes reformed. Again, no proof whatever is offered, or can be offered, that, unless venereal diseases are wrestled with by these particular measures, all hope of achieving every one of the other beneficial ends must be abandoned; on the contrary, an enormous amount of evidence has been brought forward, whatever its worth, to the effect—(1) that, whilst these particular modes of grappling with the diseases, as put in force over any but the narrowest area, are hopelessly ineffective, the other moral and social ends, even when these are honestly kept in view, are most uncertainly and imperfectly attained; (2) that these latter ends are achieved, and can be achieved, far more certainly and far more perfectly, by a variety of other social, legislative, and administrative, measures, wholly independent of the system of State regulated vice; and (3) that this system, even if it did attain a success as conspicuous as that claimed for it, introduces a horde of other evils, political and moral, which infinitely more than counterpoise the good alleged to be attained. Whether these positions are or are not made good, may be matter of interminable debate. It is

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important, however, to announce at the outset that the system of State regulation must be tested by its capacity to meet each of the classes of evils to which it is addressed in the only or the best possible way, and by the improbability of its introducing other, and fresh, evils worse than those it affects to cast out. Of course it might prove to be the case that, though it were the best device for reducing disease, it was only one out of many equally good or better devices for preventing juvenile prostitution and reforming the prostitute. The system must, in that case, not have the credit of being the best device for meeting all of the several classes of evils complained of. The writers on the subject, however, are so much in love with the system, or they feel it to be so much in danger when once the full blaze of public discussion is turned upon it, that they will not admit of the possible value of any police regulations or philanthropic efforts which are not in distinct connexion with the system they uphold.

It will be convenient to explain the system by a primary reference to the attempted cure and restriction of disease. The system has been introduced, and is mainly defended, by members of the medical profession; and the largest part of the system,—indeed the only essential and invariable part of it in all countries—relates to disease, its restriction, its mitigation, and its cure. Whether the other features of the system are or are not merely accidental appendages, attached in order to propitiate a public sentiment of charity and decency, will more clearly appear when the leading principles of the system in its essence have been fully exposed to view.

THE MEDICAL
THEORY.

The system reposes on a medical theory,—whether true, false, or partially true but vastly exaggerated, matters not for the present purpose,—that diseases of a venereal type are, in every modern European state, largely diffused throughout society at large; and that

these diseases are perpetuated and indefinitely extended in successive generations, thereby not only producing widespread secondary disorders of a debilitating and painful kind, but also threatening a serious degeneration of the race. Whatever be the original historical cause for the manifestation of these diseases in the form they now take, it is confessed on all hands that they owe their continued reproduction to irregular sexual intercourse, especially to that excessive abuse of it which is implied in, and attends, prostitution. Excess, want of cleanliness, and want of attention to incipient symptoms of disorder, tend both in men and women to engender and to foster disease. The disease when formed is said to be habitually passed on by profligate men to their wives and so to their children and descendants; by prostitutes to the husbands they very constantly marry (as Mr. Acton believed) and to their families; and by men and women alike to all as yet uncontaminated persons whom they are in a position to infect.

The disease is, of course, most prevalent and most flagrant in places in which sexual immorality is, from one cause or another, most uncontrolled; that is, in great cities, in military stations, in naval and mercantile ports.

It is important, too, to notice that the diseases classed generically as "venereal" are of very different kinds and degrees of intensity, and that the introduction of them has been due to different historical circumstances. Thus Dr. Mauriac, physician to the Hôpital du Midi, DR. MAURIAC. Paris, in a recently published pamphlet (*Rareté actuelle du Chancre simple*, Paris, Delahaye, 1876), speaking of what is called "soft chancre" says "it is a disgrace to our civilisation that it still exists. Have we not the power of destroying it as we destroy vermin, and all parasitic diseases which lodge in the skin? Yes, I am convinced that it will be made to disappear when-

CHAP. II. "ever society will seriously take the trouble to make it
"cease. Its rarity, which has been extraordinary for
"some time past, is it not perhaps the prelude of its
"future extinction?" Dr. Mauriac says he would not
be equally affirmative with respect to "syphilis."
"Since that disease invaded Europe at the end of the
"fifteenth century, it has never ceased to rage. It has
"before it, as it has had in its past history, many years
"of existence. Reason, however, tells us that it is not
"inherent in humanity, so that we need not for ever
"despair of destroying it." As to "gonorrhœa," the
least serious form of the disease, Dr. Mauriac believes "it
"will remain as long as humanity. It was born with it,
"and will die with it. Were we to extinguish this
"special inflammation for several years, it would re-
"awaken from its ashes."

It must be observed, however, that great discrepancy of opinion exists among medical specialists as to the true modes in which this group of diseases ought to be classified, and as to the relative significance of each class. Almost every point in reference to the whole subject is sharply controverted, the only conclusions in respect of which a tolerable amount of agreement is attained being the following. First, in the most densely populated modern towns, and especially in places where men are herded together under unnatural conditions, all forms of disease prevail largely, though the very worst forms are almost everywhere showing signs of diminution. Secondly, all but the very worst forms readily yield to simple treatment, and the more serious kinds of disease can possibly be kept at a distance from men and women by a prudent resort to well-known precautions without vicious indulgence being foregone. Thirdly, certain artificial conditions can undoubtedly be created in which medical treatment can be applied on a considerable scale without vice being impeded; it being warmly disputed, how-

ever, in the medical profession, whether medical treatment does in fact attain its proper and natural results when applied under such conditions, and whether the open encouragement thereby given to vice does not lead to its consequent diseases manifesting themselves in many fresh directions while they are momentarily arrested in one.

It is generally admitted that the existence and amount of disease may be taken as a measure of the surrounding immorality, and thus the medical treatment of the disease naturally involves a consideration of the portentous social fact denominated by the term *prostitution*. This fact and the diseases that habitually accompany it, are, in truth, always discussed together, as they ought to be, inasmuch as they are strictly related as cause and effect, and the remedies for both are likely to lie in the same direction.

Medical writers on the general subject, as Dr. Parent-Duchatelet, Dr. Jeannel, and a group of others who have bestowed especial attention on the point, seem almost to luxuriate in their description of prostitution in ancient, mediæval, and modern times. Dr. Jeannel, DR. JEANNEL. indeed, has devoted the first part of his work on "Prostitution in the Great Cities of the 19th Century" to a collection of all the allusions in Greek and Latin authors to the existence of a prostitute class. Many of the writers describe the prostitute with all the scientific precision with which a zoologist enumerates the peculiarities and habits of an animal on which he has bestowed a life-long attention. Her usual age, her average health, the average duration of her occupation and her life, her prospects of marriage, and her character when married, have not only been made matters of the most exhaustive research and statistical comparison, but are described with a patient and laborious assiduity which is the peculiar offspring of a genuine scientific curiosity. Here again Mr. Acton

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presents a pleasing contrast to the Continental writers. These do, indeed, occasionally throw across their terrible pages a gleam of commiseration or even of moral indignation. Mr. Acton hardly ever writes a word about a prostitute without remembering that she is a living woman, clothed with all the rights of humanity, and grossly and cruelly abused by men.

However valuable, within its proper limits, may be this style of research into the permanent characteristics of a prostitute's life, it, nevertheless, has the disadvantage of presenting the social fact of prostitution in a false and distorted light. Through a curious and lurid interest being imparted to one side of the truth, the other three sides of the truth are either hid from view or are rendered too tame and common-place to arrest attention. It is quite true that at any time and place where, for other reasons, prostitution is a mode of earning a livelihood, certain women, who may be generically described, will, rather than others, resort to it. Poverty, bad home training, special temptation or special misfortune, inherited lightness of manner or instability of character, will predispose certain women rather than others to this mode of living; and this mode of living tends of itself rapidly enough to have the effect of moulding all those who pursue it into a common type. But when all this is said, nothing is gained in the search for the real cause of prostitution, nor, therefore, for its remedy. In fact, so long as the facts above enumerated exist at all, prostitution must, on this showing, seem irremediable, because it will always be more likely that some women rather than others will succumb to it.

The sole *cause* of prostitution,—in the true sense of the word *cause*, that, if it alone were away, the effect could not and would not follow,—is *the demand for it created by the profligacy of men who are able to pay enough to tempt forth the supply*. Of course, as a moral principle, it is true that no price ought to be sufficient to

call forth the supply, and, in deference to this unassailable principle, no one, however indulgent to special cases, exempts the prostitute from the gravest moral blame. But this is no reason for ignoring the fact that the demand is voluntarily created by men, who, by the hypothesis, are not pressed by want but are merely impelled by a passion or caprice which cannot claim the slightest indulgence when the interests of others or of society are put into competition with it.

It may be true that there are many circumstances in modern society unfavourable to continence in men. It is undoubtedly true that certain institutions and facts,—such as the composition of the army in England, the celibacy of the clergy in some countries, the social dislike to marriage in some stations of life,—are directly provocative of licentious living. It may also be true that special hereditary proclivities, habits of life, or conditions of health, place some individual men at a great disadvantage in comparison with their fellows in the effort to exercise moral self-restraint. But every one of these general or special allurements to immorality in men is accidental and temporary, and so admits of being gradually modified or wholly got rid of. It is the function of the lawgiver, of the statesman, of the educational reformer, even (it may be) of the physician, gradually to diminish these potent temptations to vice; and all true-hearted citizens are straining their uttermost to co-operate in diminishing them. The more even distribution of wealth, the removal of needless impediments to marriage, the reconstitution on a sound basis of the national army, and the introduction of healthier habits of life, are all, day by day, reducing those temptations to vice which seem unduly to weight some classes of men in the race for virtue. The temptations will always be greater for some men than for others, and they will never be entirely banished from the world so long as virtue itself remains in it. But they are already far less in

CAUSES OF
VICE.

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some countries than in others, and in some portions of society than in others, and all this affords an earnest of their possible diminution everywhere. One cause alone tends in the directly opposite direction, that is, in favour of supporting and perpetuating the general practice of immorality in men. That cause is the advocacy of the notion, or the translation of it into fixed institutions, that promiscuous indulgence is less derogatory and discreditable to the man who can pay for his vice than to the woman who is poor enough to be tempted to accept payment. Ordinary justice, ordinary humanity, nay, ordinary common sense, would enforce exactly the opposite lesson, namely, that the more free and independent a person is, the more heinous is his or her offence, and the more accountable for it he or she is. But, owing to ages of inherited false judgment, and to the predominance in forming the customary moral code that men who speak and write have hitherto had over women who have mostly been silent, the vice of men is habitually passed over as a topic scarcely worth adverting to, except to heave a gentle sigh over it as the least attractive of Nature's immutable laws; and the corresponding vice of women, occasioned, as it mostly is, by that of men, becomes the inexhaustible topic of volumes of scientific dissertations.

It is essential to a thorough comprehension of the prevalent system for the State regulation of vice to appreciate the standing-point, as above described, from which it is viewed by those who have constructed it, or who maintain it. The main and primary object is said to be the restriction, the mitigation, and the cure, of the venereal diseases which are traceable to the promiscuous intercourse of men and women. The system in vogue, in all its forms, may be described as marking out an area, sufficiently limited to admit of the efficient application of curative or palliative

medical measures, outside which alone vice in women shall be repressed by law, and inside which vice in men and women alike shall be regulated and protected, and even facilitated to the utmost, by all the means that medical science and administrative ingenuity can devise. Thus the system may be considered as consisting of two parts, one that which is concerned with determining the limits of the area for safe and legitimate indulgence, the other that which is concerned with the methods for securing physical immunity within the limits of this area.

The keystone of the system is that men's vice is to be treated as a fixed quantity, and that no interference with it of any kind is to be resorted to. The vice of women is to be distributed by administrative machinery into pre-ordained channels so adroitly as to secure for men the largest provision for their vices at the least risk, expense, or inconvenience, to themselves. Thus, when it is said that an area for the application of medical measures is ascertained and mapped out, it means that a prostitute class is specially created by law and the police, is separated sharply in a variety of ways from the rest of the population, is placed under a special code of laws, and in a multitude of ways is guarded against the chances of ready admixture again with the people at large.

It is necessary to explain with some minuteness the REGISTRATION. general policy and the process of constructing a prostitute class by law or by police administration. It need scarcely be mentioned to any one who has the most superficial acquaintance with any phase of the existing system for the State regulation of vice, that the creation of a class of prostitutes by a process of strict registration is not only the essential preliminary to all that follows, but is the part of the system on which all writers, medical and legal alike, insist, as being of indispensable importance. It may be said that the

CHAP. II. unregistered prostitute, the "*insoumise*" or clandestine prostitute (though the term "clandestine" is usually limited in this country to describe the woman who practises prostitution without giving rise to the slightest public scandal) is the *bête noir* equally of the medical and of the legal enthusiast.

DR. MIREUR. Dr. Mireur, of Marseilles, stands alone in advocating a theory which excites an almost religious horror in the breasts of his medical rivals; to the effect that, provided the State supplies a sufficient number of healthy prostitutes in the proper repositories, it has nothing to do with those who walk about and scatter disease at large. The ablest and most consistent supporters of the English "Contagious Diseases Acts" are never tired of asserting and re-asserting, that all the present defects of these Acts would be corrected, and their efficiency abundantly manifested, if only unregistered prostitutes could be prevented from constantly inundating afresh the limited districts now subject to the Acts.

M. LECOUR. M. Lecour (in his capacity of head of the office for carrying out the system in Paris) defends himself against the imputation of remissness with which sundry French medical enthusiasts charge him ("*De l'état actuel de la Prostitution Parisienne*," Paris, 1874). He says that in 1873, 12,392 arrests of prostitutes were made, of whom 3719 were clandestine; that is, those who would have escaped being registered if they could. He says this is about as far as repressive measures can go, and yet he contemplates the result with a melancholy misgiving. "One must then at present," says M. Lecour, "resign oneself to live in such conditions as these, ever fighting with embarrassments of the same sort, keeping up the struggle by efforts to reduce the evil to its least proportions, and encouraging the hope that such consequences as are due to recent public events will diminish in time." Both M. Lecour and his medical critics are at one in

believing that the vitality of their system depends on a rigid registration of all women practising prostitution, though as to the feasibility of it they differ widely. And yet an important distinction, suggested by the observations of M. Lecour himself as well as by common sense, has to be introduced. The conditions for working the system are not only far more favourable in the case of a very small geographical area, isolated through accidental conditions, than in that of a large area or an area not thus isolated ; but in the latter circumstances the favourable conditions vanish altogether.

The most favourable conditions are those presented by a camp or a naval station abroad, where the whole population is limited in extent and can, with the soldiers or sailors, be placed under military control. No doubt, in a case like this, such as is presented by Malta, Hong Kong, and other English settlements abroad, it may be possible absolutely to prevent any woman but a registered and guaranteed prostitute coming near the troops or sailors. But the conditions here supposed are all, in the highest degree, exceptional and artificial. The men are under a control very different from that of a home station, and still more different from the unfettered condition of ordinary citizens in a large town at home. The population is either scanty or kept entirely apart from the military or naval posts. A select body of women, given to prostitution, can be detached from the rest in the numbers and with the regularity which seem to be required. The evidence given before the Select Committee of the House of Commons, 1868, by Sir H. Storks, Governor of Malta, SIR H. STORKS. in reference to the practice there, explains the nature of the facilities which are here alluded to ; and the evidence of Dr. Ross, surgeon in the 92nd Highlanders, DR. ROSS. given before the Royal Commission of 1871, is still more to the point. He says (Answer 15,129), "I was
" in India twelve or thirteen years ago, and when

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“ a regiment arrives in India, a certain establishment
 “ is told off for each regiment as it arrives; and,
 “ amongst others, there is an establishment of prosti-
 “ tutes, who are housed in the bazaars, and regularly
 “ looked after by the matron appointed for the pur-
 “ pose, and superintended and examined by the sur-
 “ geon of the regiment.”

EFFECT OF
ENLARGING
THE AREA.

Now, dropping for the moment all other comments on this special manifestation of the system, it is obvious that, at the least, the conditions essential to constructing a prostitute class and placing it under the complete control of the authorities are here present in the highest degree. But as the geographical area increases, the difficulty of registration, and, therefore, of regulation, increases in far more than geometrical progression; and if all the moderate sized towns of a country were brought under the system, there would ensue what even the French medical advocates themselves dread on good historical grounds, in a too rigid system, namely, the corruption of the neighbouring villages, through the scattering abroad in every direction of prostitutes and those who are in quest of them. It is thus a fallacy of a very transparent sort to argue from any results whatever obtainable within a strictly limited geographical area, or even within a moderately compact and manageable town, and to allege that like results, only in a vastly multiplied extent, will be obtained by applying the system over a proportionately extended area.

The truth is that the system presupposes on the face of it, for its medical conditions, the absolute sequestration of all women capable of passing on disease. A rigid method of registration is thus essential, and yet for every access of area its difficulty hugely increases, till it becomes impossible. How this is so will appear more clearly when the special police machinery in use for constructing the prostitute

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class has been explained later on. In the meantime, it must be taken for granted that, if the system is good, and is to exist at all, it must be extended all over the country. In the words of Dr. Vintras (p. 76): "Now that the work of repression has begun, it cannot be stopped: these measures must become general; there cannot be privileged towns. If it were so, the results would be disastrous, for the women when detected would escape (as they already do) to the places to which the Acts do not apply. If the authorities are convinced that it has become necessary to protect the country's sergeants, they ought not to refuse the same protection to those who pay for them. If it is wrong to infect a soldier at Portsmouth, it surely must be equally wrong to infect a civilian in London."

DR. VINTRAS
ON EX-
TENSION.

It is to be observed at this stage of the inquiry, that (1) any separation of prostitutes as a class from the rest of the population, by police measures, is directly opposed to the principles upon which are based the soundest remedial efforts which are or might be made on behalf of the recovery of individual prostitutes; that (2) a classification for sanitary purposes, mainly or solely, is and must be replete with hardship and injustice; and that (3) the registration of a class of prostitutes does of itself present a stimulus of the most potent and constant kind to immoral living both in men and women.

As respects (1) the recovery of individual women, it is plain that the general success of remedial efforts will depend upon the possibility of interposing on behalf of women and arresting them at every step of their downward career; upon their being as little as possible brutalised and degraded to a common level by any dealings with them in a mass; upon their not corrupting each other by constantly and forcibly being brought face to face for purposes connected only with their nefarious occupation; and upon the facility with

(1) REFORMA-
TORY EFFECTS.

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A PROSTITUTE
CLASS.

which they can, at their will, at a moment, be lifted entirely and for ever out of the scenes and associations amidst which they have been living.

It is true that, though habitually profligate men stand as a vicious exception just as much apart from the rest of their sex as the women they pay do from the rest of theirs, and in this sense the one form a natural class as much as the other ; yet,—owing to the shelter which society gives to men's vices and to the advantage in escaping notoriety which the wealthier buyer has over the poorer seller,—the women who resort to prostitution stand forth far more conspicuously visible as a class than do the men who support it. Of course, the facts that such a life, where it exists at all, is very frequently a woman's only means of obtaining a maintenance, and that the life is shared by several persons all familiarly known to each other, tend of themselves to impress on the women many peculiar characteristics, and in this way to make them a distinctly recognizable class of the population. But every one of these incidents opposes a distinct obstacle in the way of philanthropic efforts to recover individual women who have once succumbed. The effect of the police registration, which is the first and essential step in carrying into operation the licensing system in all its forms, aggravates the effect of the spontaneous classification by formulating, protecting, and riveting it.

The essence of the registration system is that all registered women shall be separated, as completely as is compatible with the other ends in view, from the rest of the population ; that they shall become thereby subject to a special code of laws ; be attended by a special medical staff and nursed in special hospitals ; and be only dismissed from the register on satisfying public officials that they have complied with conditions which, in some countries, are of an extremely exigent, if not impossible, kind. It is obviously too clear to

need argument that no one with his mind simply bent upon rescuing one woman and another from a life of vice would, on this ground alone advocate a system which does what it can to make a fall precipitate decisive, and irreparable. CHAP. II.

Some of the more bold of the defenders of the English Contagious Diseases Acts have, indeed, argued that a counterpoise for these results is to be found in the deterrent effects which the prospect of registration itself exercises; and that the police who apply the system are known to avail themselves of this deterrent in their philanthropic efforts to save women from falling into the net. This looks very like an *ex post facto* argument introduced to give a plausibility to a threatened institution, and would be equally applicable however cruel and demoralising was the treatment of women when once registered. But, in the first place, even supposing there were any general and trustworthy security for the active benevolence of the police, then the interests of one or another, on whom this deterrent agency may chance to operate favourably, has to be pitted against the interests of everyone of the registered prostitutes who are tied and bound to their occupation by the thralldom of an enormous system worked by iron rules. And, in the second place, so far from it being probable that the system will generally be, or is, worked (even were it possible) as a deterrent, such a use of the system would be a direct contradiction of its essential principles. DETERRENT
EFFECTS.

This leads to a consideration of the second (2) consequence of the registration of prostitutes which the system involves. The purpose of the whole system is originally and essentially sanitary. The method applied is that of bringing under medical observation and treatment all women capable of communicating disease. Universality and comprehensiveness are indispensable to the method. Thus, either a definition of an entirely novel kind must be given to the term (2) SANITARY
CLASSIFICA-
TION.

CHAP. II. *prostitute*, or other persons, not prostitutes strictly so called, must be included within the meshes of the system. In other words, a special medical, and not a common moral, interpretation must be given to the term *prostitute*.

Though, of course, the supporters of the system will be guided by what is practicable, and will therefore forbear to interfere with the more influential classes of society, yet they will, and must, do their utmost to sweep into their drag-net at least all women belonging to the uninfluential classes who are likely sooner or later to become a vehicle for disease, whether, in any strict moral sense, they are as yet prostitutes or not. They must include, or try to include, all the numerous women who in the great towns, through misfortune, or error, or single lapse from virtue, seem to be on the path to become prostitutes. They must include all persons who occasionally or partially resort to prostitution in order to eke out, for themselves, or their families, an insufficient livelihood. They must even be willing to risk including (in order to be on the safe side) many of those who merely are socially acquainted with prostitutes, or with men of certain classes, or characters; and whose habits of life are in various respects not to be distinguished from their habits. Such are the obvious requirements which are inexorable if the system is even to have a plausible show of efficacy as a mode of arresting and restricting disease. In other words, the whole energy of the system must be strained to make the class of registered prostitutes as large as possible.

This object is directly in the teeth of the objects of the moralist and the philanthropist, which must be to reduce to the smallest point attainable the number of women who openly and avowedly practise prostitution. When it is considered that the inclusion in the register is only the first step in a course of common medical treatment, of persistent police supervision, and of general regulation

in conformity with a special penal code, it is not saying too much to add that, on the theory of the system, the medical necessities insist that the class of recognized prostitutes be made as comprehensive as possible, that it be rendered as compact and homogeneous as possible, and that exit from it be allowed only on compliance with the sternest conditions. The demands of morality, charity, and justice are directly the reverse. The fact is that the area of disease and the area of prostitution are not and cannot be made conterminous. It is the inherent policy of this system to treat them as though they were so, and the utmost cruelty and injustice must attend the enterprise.

But (3) the public registration of prostitutes is, in respect of the moral influences upon society at large and upon prostitutes themselves, a distinct aggravation of all the moral evils, of an educational kind, which the existence of prostitution itself involves. It must suggest to the young woman as yet unfallen, but not untempted, that a livelihood is at hand, in an occupation not less regular, organised, and publicly recognised than other occupations. It suggests to the young man at critical moments of his life, not only that promiscuous intercourse is possible for him (a lesson he could not escape, perhaps, anyhow), but that a marked and picked corps of his fellow-countrywomen are publicly stamped as available for his use. It suggests to all persons in every part of society that prostitution is not an intolerable and wholly anomalous fact, but that, on the contrary, an order, a caste, a college, of women consecrated to prostitution, are as deeply and lastingly bound up with the fortunes of the State as are the most immoveable bulwarks of the political fabric itself. For, be it remembered, in the licensing system there is no one feature which might gradually work in favour of its own termination and of the abolition of immorality, and which must finally

(3) EDUCATIONAL EFFECTS.

CHAP. II. secure them. On the contrary, every feature tends to aggravate immorality, whether with or without its attendant diseases, and to consolidate it for ever—that is as long as the nation can last.

The registration completed according to one or other of the detailed methods to be described later on, the next stages in the operation of the system are concerned with the attainments of two objects in some manner distinct from one another, though carried out by the harmonious co-operation of the medical and police staff. One of these objects is the periodical medical inspection of women, with the view either of affording a public guarantee that they are free from communicable disease, or of at once putting them under such a course of treatment as may render them free. The other object is the general regulation of the conduct of prostitutes with a view to their occupation being carried on with as little offence to public decency and as little injury to the young as possible.

The attainment of these distinct objects is pursued simultaneously, and it is obvious that the general principle of police supervision of prostitutes may be made to conduce to the attainment of both at once. Nevertheless, the sanitary and administrative measures do sometimes conflict with one another as well as do also the medical and police authorities who apply them, a fact which the sharp controversy and recriminations between M. Lecour and the French doctors sufficiently proves.* However, the measures adopted solely in behalf of public decency and the protection of the young are not essential to the system as a machinery for arresting and controlling venereal disease; nor is it attempted to show that they are better in kind for being pursued in concert with the system of

* See M. Lecour's criticism of the suggestions and animadversions of Drs. Jeannel and Diday ("*De l'état actuel de la Prostitution Parisienne*").

publicly providing secure vice; or that, even were all the provisions for this last end to be swept away, the ordinary law might not be usefully amended so as to give special powers to the police for preventing public scandals, whether occasioned by men or by women, and for protecting against temptation or unfair pressure all those who, by reason of youth, cannot sufficiently protect themselves.

It cannot be too often insisted on that it is the interest of those who defend the system of State regulated vice to establish that, unless prostitutes are guaranteed safe for hire, neither public decency, the protection of the young, nor the reformation of the prostitute herself, can be sufficiently provided for. This seductive mode of argumentation must be exposed again and again, till it is made clear as daylight that the two ends are entirely independent of each other, and that, though the attainment of the so-called sanitary objects is no doubt facilitated by the regulations prescribed in favour of public decorum, yet that every one of these regulations can be applied, to the full, under a method of sanitary treatment freed from all the deeplygrounded objections which lie against the existing method. It is then, for the present, sufficient to investigate the nature of this method so far as it is essentially characteristic of the system of State provision for vice now under review.

The periodical surgical examination (*visite sanitaire*) of prostitutes, as it is the part of the system which is most open to objection, so it is undoubtedly the part which, in view of the theory on which the whole system is based, can least be dispensed with: in fact, it is the very centre and prop of the whole. If this principle were given up, the system would no longer be defended on behalf of what remains, and, in the opinion of those who understand it best and advocate it the most strenuously, would no longer be worth the labour and

PERIODICAL
EXAMINATION.

CHAP. II.

(often) disrepute of defending it. The system, indeed without this feature would be meaningless and no longer itself. Not that it is inconceivable, as a possibility, to dispense with these examinations and retain the rest of the system, as seems to have been contemplated by a majority of the English Royal Commissioners who reported in 1871, and again in the abortive measure introduced by Mr. Bruce (now Lord Aberdare), the Home Secretary in Mr. Gladstone's Government in 1872. But the medical support to any such schemes as these is so feeble that they instantly fall helpless victims to the crowd of assailants by whom on all grounds, moral and constitutional as well as medical, they are from every side attacked. There is no medical writer of any note, who supports the system in any of its forms, who does not allege with almost wearisome insistence and reiteration that the system implies the periodical "*visite*" or examination of prostitutes, or else that it is not worth advocating. Of course the greatest differences, both of theory and practice, are found to exist as to the conditions and the frequency of the "*visite*," as well as in respect of the mode of conducting and enforcing it.

REPORT OF
COMMISSION
OF 1871.

The report of the Royal Commissioners on the "Administration and Operation of the Contagious Diseases Acts," presented to both Houses of Parliament in 1871, contains the following passage :—

"29. The medical witnesses experienced in the administration of these Acts are nearly all agreed that "the periodical examination of the public women is "essential to the system. Dr. Balfour, the Inspector-General of Hospitals, said, 'I do not see how the "Acts could be carried on without that examination. "It is the only way in which you could detect the disease and bring it under treatment.' Dr. Armstrong, the Director-General of the Naval Medical Department, "expresses an equally confident opinion. Dr. Barr, surgeon of the Lock Hospital at Aldershot, spoke positively

“to the same effect. Mr. Lane, the senior surgeon of the London Lock Hospital, thought ‘the periodical examination was absolutely necessary.’ The frequency of such examinations is also insisted on. Mr. Pickthorn, the visiting surgeon at Devonport, says, ‘it is absolutely necessary that they should be fortnightly.’ Mr. Moore, the resident medical officer at the Royal Albert (certified) Hospital, Devonport, doubts if the periodical examination is sufficiently frequent. Mr. Bulteel, sometime surgeon to the same hospital, ‘considers periodical medical examination to be of the very essence of the ‘Act physically,’ and that such examination should be fortnightly. Mr. Square, a surgeon at Plymouth in private practice, and Mr. Parsons, visiting surgeon to the Portsmouth Lock Hospital, are of the same opinion.”

In view of this decisive passage it is perhaps more surprising that the first of the recommendations signed by the whole twenty-three Commissioners is “that the periodical examinations of public women be discontinued,” than that seven of the Commissioners signed a separate dissent from these recommendations on the grounds, amongst others, “that they had been irresistibly led to the conclusion that it was only under a system of periodical examinations that either venereal disease could be speedily detected and effectively checked, or the police be safely entrusted with duties which must be admitted to be, under the most favourable circumstances, of a difficult and delicate nature, requiring every safeguard which prudence can suggest.”

It is needless to repeat that such scruples as seem to have perplexed a majority of the English Royal Commissioners are wholly unknown to all the advocates of the system in other countries, however much they differ from each other in points of detail. These differences cover, indeed, a very wide field, and relate to (1) the frequency of the examination, (2) the modes of

CHAP. II. conducting the examination, and (3) the modes of enforcing the examination.

(1) FREQUENCY
OF EXAMINA-
TION.

In England the ordinary period intervening between the examinations is a fortnight, but the time may be varied for any particular place at the discretion of the Admiralty or the Secretary of State for War; or, as it would appear, at that of the visiting surgeon, so often as occasion seems to him to require.* In Paris the usual interval is a week for those residing in the licensed houses and a fortnight for those who live by themselves (*filles isolées*). But the greatest discrepancy in this respect exists even within the limits of France itself. Thus there are thirteen towns where the examination is twice a week, forty-two where it is once a week, twenty where it is three times a month, and five where it is twice a month. In Belgium each woman is examined at least twice a week, and the same in Italy and in Spain.

DRS. BEL-
HOMME AND
MARTIN.

But this actual practice by no means represents the limits of medical opinion on the subject. Doctors Belhomme and Martin (*Traité de pathologie syphilitique et vénérienne*, Paris, 1864, cited by Mireur, p. 330) are of opinion that the *visites* in Paris—which, on the whole, are far greater in number than in England—are by no means frequent enough. “A venereal or syphilitic accident, resulting either from previous contagion or newly supervening circumstances, may appear the day after the medical examination, and the woman so affected becomes a source of contamination for the fortnight subsequent or, it may be, for a whole month if the injury is situated within the vagina. What guarantee can be offered by a control so sparsely exercised? This guarantee is quite insignificant, sad as it is to say it, so insignificant, indeed, that syphilis takes its rise above all from women under police surveillance, as M. Alfred Fournier has established in tracing the

* 29 Vict. c. 35, ss. 18, 19.

† See Gavin, quoted by Dr. Jeannel (p. 356).

"source of contagion in 367 cases of syphilis that he had the opportunity of observing, partly in the hospital division, partly in his private practice. Out of 367 diseased men 234 had contracted their chancrous sores through intercourse with registered women. M. Puche found, out of 510 cases of syphilis, that 374 were traceable to prostitutes subjected to regular sanitary inspection."

Of course the result of such statistics as these is to suggest the expediency of multiplying the examinations, and there is no lack of courageous advocates of increased frequency in the examinations. Dr. Mireur (p. 329), after noticing that, in case of fortnightly examinations, if the result of contagion develops itself shortly after the examination the infected woman may transmit her malady to a number of men up to the time of the next examination when she is at last consigned to an hospital, adds, "M. Record thinks prostitutes ought to be examined not less than every three days; M. Ratier and M. Sandouville, every four days; M. Davila, M. Langlebert, and many other besides, twice a week; M. Lancereaux, every two days. In principle, the authorities are of one mind as to the expediency of making the examinations at least twice as frequent as at present." In the case of a woman who has once been treated in an hospital for syphilis Dr. Mireur himself recommends an examination either every day or, at least, every other day, and this for eighteen months or two years after leaving the hospital.

As to (2) the mode of conducting the examination, the varieties of opinion are mostly of purely medical interest. It is, however, worth while to cite a suggestion of Doctors Belhomme and Martin, mentioned by Dr. Mireur (p. 332), as it serves to illustrate the complete notion of the examination, and the sort of scientific prominence which the physical aspects of prostitution are, under the licensing system, gradually

(2) MODE OF
EXAMINATION.

DRS. BEL-
HOMME AND
MARTIN.

CHAP. II. acquiring over every other. It is that "every
 "registered woman should receive at the place of
 "examination a card which, besides her name, contains
 "six divisions" (corresponding to the several parts of
 "the body liable to be affected); "and, after the exami-
 "nation of each region, the surgeon should mark on the
 "card by the words *healthy* or *diseased* the result of the
 "investigations." It is fair to add that Dr. Mireur
 himself, enthusiastic and "logical" as he is, is not
 wholly blind to the consequences of putting his
 medical convictions to their practical result, for he
 closes this section of his work by a naïve expression of
 misgiving. "Is there not reason to fear that, should . . .
 "these multiplied examinations be conducted outside
 "licensed houses, as, we admit, would, from a hygienic
 "point of view, be far preferable, they would become an
 "occasion of perpetual scandal by the ceaseless comings
 "and goings they must occasion?"

(3) ENFORCE-
 MENT OF
 EXAMINATION.

The modes (3) of enforcing the examinations, which
 have given rise to a great deal of discussion, and involve
 questions of the highest importance, will more appropri-
 ately be described in connection with the functions
 of the police, which the licensing system calls into exer-
 cise (See Chapter III.). At present, the only question is
 as to the true place which periodical medical exami-
 nations occupy in the system of licensed prostitution,
 and as to the general character and effect of these
 examinations.

It appears, then, from what has gone before, that,
 firstly, periodical surgical examinations of registered
 prostitutes for the double purpose of guaranteeing the
 healthy and of placing the diseased under treatment form
 the central and essential principles of the system in
 everyone of its forms both in England and abroad.
 Secondly, the customary period intervening between
 the examinations in England, as at present conducted,
 is the longest existing anywhere, and is such as, in the

opinion of some of those advocates of the system who have bestowed on it the closest attention, must be very imperfectly serviceable for its professed purpose. Thirdly, there is a determined effort being made by all the most competent and influential medical authorities abroad to multiply the examinations, even far beyond the number enforced in Paris, which are, as yet, far fewer than those enforced in many places elsewhere in France; and there are indications that nothing but the fear of gross public scandal prevents them being ultimately repeated every day.

It remains to add a few words of general comment on these periodical examinations.

The perplexity attending the question of these examinations is sufficiently apparent from the conduct of the sixteen Royal Commissioners, out of the twenty-three, who did not protest against the generally signed recommendation to the effect that the periodical examinations should be discontinued, in spite of the almost overwhelming amount of medical evidence presented to them that "the periodical examinations were absolutely necessary." Mr. Massey, the Chairman of the Commission, subsequently, in the House of Commons, on the debate in 1875 on Sir Harcourt Johnstone's Repeal Bill, explained the position of most of the Commissioners. He said: "So far as the "medical evidence was concerned, there could hardly be "a doubt that the system of periodical examination was "the most efficacious for the restriction of diseases, but, "on the other hand, there were many considerations of "morality and decency which rendered the majority of "the Commissioners unwilling to recommend it. There "were, no doubt, unpleasant exhibitions attending it, "and there was something so hard in reducing it to so "much a matter of mere business that these unfortunate creatures should, once a fortnight, have to be "examined; that the minds of the majority of the Com-

CHAP. II. "mission did revolt against that system, and they came
"to the conclusion that the principal benefit of this
"policy might be maintained without resorting to or
"continuing the extreme proceeding."

It is, any way, a fact that, after a specially laborious inquiry extending over several months, sixteen out of twenty-three Royal Commissioners came to the unanimous conclusion that the periodical examinations—the keystone of the system—must be abandoned, in spite of the medical plausibility which, in their view, these examinations possessed solely because of their plain conflict with the claims of morality, decency, and humanity.

There are, it would seem, those who hold that, if the periodical surgical examinations can be so regulated that no diseased woman is ever at large, then no objection to them on any ground whatever must be for a moment listened to. One final result of civilisation is attained; namely, a mode has been discovered by which the maximum of vice is rendered compatible with the minimum of disease. To such persons every kind of criticism must seem merely captious and frivolous, if, indeed, not tainted with ingratitude for the blessed dispensation in the midst of which the lot of human beings, or at least of men, is cast. But the present reasoning is not addressed to these persons, because they cannot be expected to pause in order to attend to it. It is addressed to those person, whether members of the medical profession or others, who know that one end must not be sought for at the sacrifice of other ends equally, or more, important; and that even health itself, unspeakably blessed as it is, must not be pursued at the cost of moral and spiritual treasures which alone impart to it its value and its use; least of all must the health of some be recklessly pursued by means which involve an wholly disproportionate loss on the part of others. Happily, the

constitution of mankind and of the world, when wisely studied and honestly conformed to, is found to impose no necessity of choosing between such alternatives. It is the great discovery of this age that, if it be true that health of body is in the highest degree conducive to virtuous living, it is equally true that only by general virtuous living can national health be certainly secured. This is one of those axioms of modern science which at once illustrate and substantiate the unity of Natural Laws.

It may be assumed, then, that, even if the periodical examinations could be made effectually to guarantee the health of every prostitute at large, yet the value of this end must be weighed against that of other considerations equally, or even more, precious. But before pointing out the effect of these examinations in other respects, it is important to draw attention to the facts (1) that it is a matter of the most serious discussion among competent medical authorities whether, even were all other objections out of the way, periodical examinations can be relied upon for detecting disease; and (2) that while some authorities (as was above shown) hold the weekly and fortnightly examinations as conducted at Paris to be worse than useless, all the leading Continental authorities combine to assert that, while security will increase with the frequency of the examinations, no security worth having can be obtained by a less frequent examination than (at the least) once in three days.

As regards the first (1) of these facts, of course it will not be attempted here either to give an account of the medical discussion or to sum up in favour of one side or the other. Some, however, of the possibly invalidating arguments, alleged by those who impugn the general value of the examinations, evince their own importance on the mere statement of them. Such are the assertions that, in exact proportion to the security

MEDICAL IN-
EFFICIENCY.

CHAP. II. believed to be given, and to the limitation in the number of the registered prostitutes as compared with all prostitutes, the amount of intercourse with each registered prostitute is increased, and the well-known causes of fresh disease multiplied; that it is quite possible for the seeds of disease to be communicated from one man to another without the woman who is the intermediate agent disclosing any signs, discoverable by known processes, of being herself infected; that the symptoms of the lighter form of disease can be easily disguised by the woman a short time before the examination, and that those of the more serious form are often such as entirely to evade the most microscopic observation, and, most of all, an observation conducted, as each one out of hundreds of other simultaneous ones must be, with the utmost regard for routine and despatch. It must in justice be admitted that in some countries the utmost is done to remedy any defects which may be due to the insufficiency of the examination. Thus Dr. Mireur (p. 331) quotes MM. Belhomme and Martin, as follows :—

M. SIGMUND. “ M. le professeur Sigmund, de Vienne, qui assistait un jour avec l’un de nous, à la visite du dispensaire de Paris, fut frappé de l’insuffisance de cette investigation, et il nous disait qu’en Autriche une fille ne quitte le cabinet du médecin de salubrité qu’après avoir été examinée complètement de pied en cap, si nous pouvons nous servir de cette expression.”

MM. LAGNEAU AND DIDAY. MM. Lagneau and Diday (Mireur, p. 333) suggest that the women should be sequestered some time before the examination in order to prevent their tampering with their symptoms. The access of administrative difficulties produced by this temporary imprisonment of hundreds of women in each town (say) twice a week, is a *reductio ad absurdum* of such a solution, and yet it is the only way of removing that particular source of error, and the suggestion shows a belief in the error not being quite visionary.

As to the (2) second of the facts to which attention was above called, that the adherents of the system abroad—who have had a far larger and a longer experience of it than their colleagues in England—scarcely care to say a word in favour of examinations which are not of a frequency far exceeding that which generally prevails at present; it will be seen that, whatever grave moral and constitutional objections lie against the periodical examinations in any form, the objections increase almost, as it were, in geometrical progression as the examinations become more frequent, till, by the time that these examinations have become little less than diurnal, the result is reached that living citizens of the State are ground down by law to the condition of a mere examinable mass of flesh and blood, served out day by day at the discretion of the public knacker, for the gratification of male citizens' appetites.

FREQUENCY
INDISPENS-
ABLE.

It is time to state categorically the deep-lying and invincible objections to which these periodical examinations of prostitutes for the purpose alleged must be held open, and which are equally forcible whatever is the amount of their medical efficacy.

OBJECTIONS
TO EXAMINA-
TIONS.

(1.) These examinations, if they achieved this purpose, would have two immediate results: one, that of securing that every woman who is diseased is sent to a hospital; the other, that of securing that all registered prostitutes at large are guaranteed free from disease. These are the obvious results which would be necessarily attributable to the examinations if they succeeded in their purpose; and it is not of the least consequence to these results what the latent design, or thought, or motive, or intent may have been in the mind of particular persons who either invented or have introduced in one country or another these examinations; nor does it affect the broad character of these results in themselves that the cure of disease is always and everywhere a good thing, and that, among their results, the periodical

(1) MORAL
EFFECT OF
GUARANTEE.

CHAP. II.

PROTECTIVE
ASPECTS OF
EXAMINA-
TIONS.

examinations include and contemplate the cure of disease. The bare fact remains, undisturbed by any of these incidental circumstances, that one chief and noticeable result of the examinations, if they succeed in their purpose, is to guarantee prostitutes as safe for hire. Indeed, the overwhelming proportion of the women examined are—whether rightly or wrongly in a medical point of view—pronounced free from disease. According to the Report produced to the English Royal Commission of 1871 (Appendix to the Report B., p. 7807), of the total number of 10,393 examinations made at Devonport during the year 1870, 9525 disclosed no disease ; that is, about 90 per cent. of the examinations took place not in order to treat and cure actual disease, but solely in order to guard against the possible presence of disease. Thus the preventive and protective aspects of the examinations far exceed in importance their strictly curative aspects ; and it must be expected that a proportionate amount of general attention will be bestowed on the former rather than on the latter. Consequently, the most noticeable phase of the examinations is the public advertisement they give beforehand that men are thereby secured against the ordinary consequences of their own voluntary wrong-doing.

No doubt it is true that every effort to cure the diseases which are the direct and obvious penalty of different sorts of wrong-doing may be looked upon as a diminution of some of the motives to abstain from evil ; and, in some cases, as in that of indiscriminate almsgiving, it is well recognised that grave and wide-reaching mischief may be done in this way. But the complaint here is not that the diseases are cured, nor that their occurrence is provided against, for all this is good, as far as it goes, or at least would be good, if it were true ; but that their occurrence is ostentatiously provided for by a machinery which, on the face of it, and by its

natural action, induces and encourages the very wrong-doing which occasions the disease.

It may or may not be that the probability of disease is an obstacle to vice; and there is evidence to show that the most depraved men are either little restrained by the prospect of disease or find means to protect themselves against its occurrence. But every one becomes aware of the contemplated result of the periodical examinations, which is that of facilitating vice; and incentives to vice are already so strong that the general knowledge of the concern which the State has for the physical safety of those who practise it, at the very time they persist in practising it, must afford a dangerously potent stimulus in the very opposite direction to that in which any public effort ought to be applied.

Experience, indeed, demonstrates the impracticability of the State attempting to repress vice by penal measures. The problem how to cure and prevent disease without encouraging the wrong-doing of which it is the direct penalty is always a perplexing one. But neither of these propositions supports the conclusion that it is justifiable for the State to abandon altogether its solemn character as the moral guardian and censor of all its citizens, and with the hope of attaining any ulterior end whatsoever, publicly to offer to wrong-doers a provocative of the most enticing sort. Mr. John Stuart Mill, in his evidence before the Royal Commission, thoroughly appreciated the true position and duties of the State in this matter. He said (A. 20,028): The law "facilitates "the act beforehand, which is a totally different thing, "and is always recognised in legislation, as a different "thing, from correcting the evils which are the consequences of vices and faults. If we were never to "interfere with the evil consequences which persons "have brought upon themselves, or are likely to have "brought upon themselves, we should help one another "very little. Undoubtedly it is quite true that inter-

MR. JOHN
STUART
MILL'S
EVIDENCE.

CHAP. II.

"fering to remedy evils which we have brought on ourselves has in some degree the same bad consequences, since it does in the same degree diminish the motive we have to guard against bringing evils on ourselves. Still a line must be drawn somewhere, and a marked line can be drawn there. You may draw a line between attacking evils when they occur, in order to remedy them as far as we are able, and making arrangements beforehand which will enable the objectionable practices to be carried on without incurring the danger of the evil. These two things I take to be distinct and capable of being kept distinct in practice. As long as hospitals are not peculiarly for that class of diseases, and do not give that class of disease any favour as compared with others, they are not liable to objection, because their operation consists in remedying the effects of past evils; they do not hold out a special facility beforehand to practising illicit indulgence with a security which it would not otherwise enjoy. The interference is not preventive but remedial."

And, again, Mr. Mill says (A. 20,101), in answer to the question: "You think that the tendency of the Act is to do moral injury?" "I do think so, because I hardly think it possible for thoughtless people not to infer, when special precautions are taken to make a course which is generally considered worthy of disapprobation safer than it would naturally be, that it cannot be considered very bad by the law, and possibly may be considered as either not bad at all, or at any rate a necessary evil."

FUNCTIONS OF
THE STATE.

The conduct of the State with respect to these periodical examinations is sometimes defended on the ground that it is only an extension of the policy which is being gradually recognized as justifiable in the case of such "contagious" diseases as small-pox, scarlet fever, typhus fever, the plague, and the like.

There is really, however, no analogy of a kind to afford a basis for the argument. The ground for special legislation in the case of all these diseases is that the virus, or whatever is the source of communicable disease, is of so subtle and diffusive a nature that innocent people have no other means of protecting themselves against contagion or infection than such an isolation of the sufferers as, in general cases, produces comparatively small inconvenience to them, and is productive of no other injurious consequences than such as invariably attend the restraint of personal liberty. In the case now under consideration, ordinary virtue and decency of living do, of themselves, raise a wall of adamant against the effects of contagion; and if men with their eyes open either allow themselves or the younger men dependent upon them voluntarily to incur the chances of disease, the State can no more be asked for special legislation to protect them or their families than it can be asked to have a body of police encircling every pool of water more than five feet deep in the country because persons occasionally commit suicide by drowning themselves—to the sore loss and misery of their wives and families.

The claims of the wives and families of the profligate have indeed been made much of as a ground for special legislation; and, if it be true (as there is too much reason to fear) that it is married men who, in the subjected districts of this country are most solicitous on behalf of the legislation, and conceive they largely profit from it, this argument ought to be fully considered.

CLAIMS OF
WIVES AND
FAMILIES.

The preliminary question whether or not the families of profligate men, if consulted, would acquiesce in facilities for a husband's vice, coupled with immunity for themselves, being purchased at the price of the depuration of public morals and the oppression of the poor, has not been asked; or has been answered by some at

CHAP. II. least in a way directly the reverse of what was hoped for. Anyway, as a matter of plain justice and equal dealing, the claims of these families can only be weighed in an equal balance against the claims of other families in the community. Nor can the question of those claims be entertained at all except so far as the maintenance of them is consistent with what is due to the claims of public morality and liberty. When proper securities for these last are guaranteed, then the time has arrived to place the claims of the wealthy and favoured few in competition with those of the indigent and helpless many. It may, perhaps, then appear that it is the function of law rather to adjust the scales of fortune and to fortify the poor against oppression than to give to the powerful that aid which the morality and humanity of the husband and father have failed to give. If this legislation is condemned because it is immoral and unjust, the claims of the relatives of the profligate cannot redeem it; and if it is not condemned on those grounds, the allegation of these claims will probably be found superfluous.

(2) SOCIAL
ELEVATION OF
PROSTITUTES.

(2.) There are certain concomitants of the periodical examinations which, though not essential to them, are so natural and obvious that they may be regarded as invariable. Such are the general social elevation of registered prostitutes, and the improvement of their demeanour, dress, and general appearance. In Paris a woman, at the time of her "inscription," is furnished with a card, on one side of which is her name, address, number, and a list of the months of the year, with blank spaces for entering a record of the examinations as they take place in the two halves of each month, and, on the other side, a list of directions (*obligations et défenses*) for her general conduct. These directions are numerous, consisting of thirteen clauses, and designate the places and hours of appearance for examination, her general

FORM OF
PARISIAN
INSCRIPTION
CARD.

demeanour, and her mode of dress. Thus: "She must have a simple and decent garb, not such as to attract attention either by the richness or striking colours of the material, or by exaggerated fashions." "She must not dress her hair" (instead of wearing a bonnet). It will thus be seen that the regulations are closely bound up with the periodical examinations, and the constant re-appearance of the women in order to undergo the examinations renders it more possible to enforce them. The evidence produced before the English Royal Commission of 1871 pointed to like results of the examinations. The Commissioners say (Par. 48): "Whatever may be the moral effect of the periodical examination on the public women, we are assured that a large proportion, if not a majority of them, appreciate the benefit of a vigilant watch over their health, and that the regular attendance at the examination-room has wrought an improvement in their demeanour, dress, and general condition."

Now while, on the one hand, any real elevation or improvement of the miserable women who are driven to practise prostitution can in itself be only a matter for rejoicing and a most legitimate object to keep ever in view, it is most essential to distinguish between the elevation of a woman as a woman, and her elevation solely as a prostitute, and for purposes of continued prostitution. Both the foreign and the English methods agree in this, that they prepare a better, cleaner, and more attractive article for the market of vice. This is the result at once claimed and professedly aimed at. Another result cannot but follow, which may be described as the ever deepening debasement and depravation of both men and women. The sort of evidence which the very administrators of the system produced on behalf of it before the Royal Commission of 1871 established this abundantly, and the Commissioners felt themselves bound to embody some of it in

EVIDENCE OF
DEPRAVATION.

- CHAP. II. their Report. Thus, Mr. P. D. Hopgood, resident surgeon of the Lock Hospital, Portsmouth, on being asked (Q. 11,633), "I want you to look at it simply on its moral side. Do you think it would be likely or unlikely that a woman knowing the purpose for which she was examined would be moralised or demoralised?" "I think certainly she would be demoralised, looking at it from that point of view simply." And
- MR. P. D. HOPGOOD.
- MISS BROWN. Miss Brown, matron of the Colchester Lock Hospital, said (Q. 17,818), "I used to hear them speak among themselves about being 'Government women,' and 'London girls.' That is the way they used to distinguish themselves." (Q. 17,822) "Did they take pride in calling themselves Government women?" "They seemed to think it gave them a *status*." (Q. 17,823) "That they were a privileged class?" "That was my impression." (Q. 17,973) "Can you give any distinct evidence of the hardening effect of the examinations on girls?" "The manner in which they went to the examination was, I think, the only thing that I could speak strongly about." (Q. 17,974) "What did you notice with regard to the way in which they went?" "So much levity, laughter, on both going and coming to and from the examination rooms." (Q. 17,975) "Did you think that increased as they got more accustomed to it?" "I thought so." The evidence of
- POLICE CONSTABLE PHILLIPS. J. A. Phillips, Metropolitan Police officer, and employed in the execution of the Act, deserves special attention, unless the value of his evidence is detracted from, because (A. 19,795-19,801) he "resigned employment from conscientious objection to the working of the Act," the work being "offensive and disgusting." Phillips says (A. 19,743-19,747), "That the women showed symptoms of shame and degradation on the first occasion of their coming to the hospital (to be examined). It was very clear to those who had the opportunity of seeing their conduct and hearing their

“ conversation that there was with many at first a considerable amount of shame and sensitiveness, and afterwards a marked spirit of boldness and of a hardening influence. I had frequent occasion to remonstrate with them about drinking (on the morning of the examination), and their reply was generally that they were oftentimes obliged to get drunk before they could come up to the hospital and submit to the ordeal they had to pass through by the examination.” (A. 19,760 to 19,763) “ I frequently had remarks made to me with respect to the Act and the girls, and likewise the sensation it caused in the district; and oftentimes I heard remarks made by people respecting children, the impression it had on the minds of many children that knew nothing of such things previously.”

PUBLIC SCANDAL.

This last is a difficulty which even, as was seen above, Dr. Mireur apprehends from excessive frequency in the periodical examinations; and yet it is an inevitable, and, as the examinations are made more frequent and the system more extensively applied, an increasing one. If there is order and periodicity in the examinations, there must be notoriety; and it is needless to point out the reflex public demoralisation which must thence ensue.

The importance of such evidence as the above is that it all comes from public officials engaged in administering the system, and was produced, with other evidence, in the general defence of the system. It is, therefore, in the nature of a reluctant admission. It, in fact, does nothing more than establish the natural conclusions of common sense. Women who are examined together, in troops, at stated times, in order to ascertain whether the State can allow them to return to the streets, cannot but feel that the State does allow and not reprobate their occupation. All the finely drawn-out reasoning, by which a distinction is drawn between forbidding

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evil and regulating it in such a way as to restrict some of its consequences, will never be appreciated by the mass of women whose vice is regulated, by the mass of men on behalf of whose sensual propensities it is regulated, or by the general public, who stand by and witness, with levity or in consternation, the process of regulation. For all these persons, the plain teaching is that the State, and those who govern and administer it, only censure vice when it is practised outside the area which the regulations prescribe. Within that area they encourage it and co-operate in facilitating it. Even the courteous attentions of the medical staff, who often pride themselves on giving useful sanitary directions to the women, and the natural or friendly complaisance of all the other officials, must help actively to enforce the same lesson. The whole of the circumstances—the very atmosphere of the place, the crowd of waiting women, the punctiliousness of the arrangements—all combine to teach, by the most effectual species of illustration, that women are being examined, as if they were so many brute beasts, in order to ascertain how far they are in a condition to be serviceable for men's vice. This is the lesson which everyone learns and must learn from the system, whether it be the intended lesson or not, and in law and morals ambiguous lessons are sometimes altogether as noxious as the worst ones.

(3) INHUMANITY.

(3.) It would be a cruel hardship forcibly to inflict these examinations on a woman even for a beneficent purpose, and the nature of the system in connection with which they are here applied involves their being inflicted on women at a very remote distance from each other in the scale of moral degradation. Sometimes it is said that the examinations are nothing more than what ordinary women undergo willingly in pursuit of health; and, again, in the same breath, that what might be a harsh or intolerable outrage on any other woman

is nothing to a prostitute. As to the first argument, the purpose and the circumstances of the examination just make the difference. The second argument is bad in two ways. In the first place, because men abuse women and women are wretched and guilty enough to consent to be abused, it is no reason why the State should avail itself of this very callousness and loss of womanly self-respect to perpetrate its own designs. Though it is wholly untrue that any but a very small section of prostitutes have lost every sentiment of personal dignity, still, even if they had, it is scandalous for the State, on behalf of any end whatever, to prop its measures on the ruin so brought about. It is rather for the State, as it is for the individual philanthropist, to fan into a flame the most flickering spark of womanly self-respect ; and even in those desperate cases in which it seems to be wholly obliterated, to wait patiently and hopefully for some fresh kindling from some as yet unanticipated source. To make a woman a prostitute by law and then forcibly to handle her as only (it is admitted) a prostitute could ever be handled is surely to incur the national guilt of public and legal rape.

But, in the second place, it has been seen that the essence of the system consists in making the area over which its net extends as wide as possible, and gathering into that net all the women who are likely to become agents in communicating disease, whatever the shades of their moral culpability. The classification is made for sanitary and not for moral purposes, though a rough reference to a moral test is demanded by the necessity of conciliating the general sympathy of the public. Now, great as is the hardship involved in instantly registering a woman as a prostitute because she happens at a particular moment to fall within some arbitrary definition of the term invented, for their own uses, by the police, the hardship becomes intensified a thousand-fold when registration involves surgical and periodical

EXTENSION OF
AREA OF
LEGAL PROS-
TITUTION.

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examination. That abuses may happen through serious mistakes of the police, and these of a most intolerable kind, is obvious enough, and more will be said upon this head in the succeeding chapter. But, apart from all abuses, the unequal operation of the surgical examination upon a vast number of women, who, by the very hypothesis, are at all stages of moral depravation, is a consideration of the most serious kind. The tendency must be to beat all the women into one shape. The attendance in the common waiting-room, the coarse colloquial phraseology to which familiar experiences shared by a number of partially educated persons are sure to give rise, the mutual interest and sympathy due to a common physical treatment, must all directly conduce to fashion all the women into one pattern, and this one borrowed, not from the least, but from the most degraded.

Dr. Jeannel says (p. 233), that in the licensed houses "the doctor's visit is the chief business, and "the constant subject of conversation." The same is likely to take place, as far as the different circumstances permit, in the case of prostitutes living by themselves. The result cannot but be, in the case of all classes of women, a miserable mental concentration on the purely physical aspects of their occupation, not only in relation to their own present health, but to that of their future male companions in sin. This result becomes intensified as the examinations become more frequent, till at last the mind of every registered prostitute must become wholly absorbed in dwelling upon them. It is not possible to conceive a system more repugnant to all the most enlightened means of rescuing those who have only gone a little way in the career of vice, nor better calculated to palsy the conscience of every woman once immersed in the system.

has yet to be noticed, though it is implied in much which has gone before. It is that the periodical examinations are an aggravation of all the most characteristic effects of what was at the commencement of this chapter denoted as the construction, by registration, of a class of prostitutes. The English Royal Commissioners in their Report (Par. 48) admit that "there is some evidence that the women consider that they are a privileged class; some of them are called 'Queen's Women.'" It is apparent that the habit of having to appear at a given place at short periodical intervals and having all to undergo the same definite though somewhat intricate surgical process, must have the effect of separating them finally from the rest of the population both in their own eyes and in the eyes of others. In France and other European countries it has been seen that the card handed to the woman on registration, which indicates the times of examination, also contains a short, but very precise, code of regulations by which her whole life is to be governed. It cannot but happen that a short experience of the system must eat its way into the moral fibre of a woman subjected to it, in the same way in which a country's laws become part and parcel of the consciousness of its citizens. An *esprit de corps*, a notion of common interests, of common relation to the police, and the like, must be, and is, rapidly generated; and the gap becomes wider and wider between the prostitute and all other women.

But it has already been demonstrated that, in the interests of prostitutes as well as of society at large, this is the reverse of what ought to be encouraged. Every effort ought to be made by public opinion and by law to prevent the notion being so much as formulated that there is any group of women, detached from the rest of the population, with whom it is less sinful to have promiscuous intercourse than with women outside the group; and it aggravates enormously the difficulty

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TION OF EF-
FECTS OF REG-
ISTRATION.

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of rescuing one woman and another from the life of sin, if that life is fortified with fixed institutions, made more attractive by the amenities of companionship, and made more easy by the existence of customs, rules, and (as it were) etiquette, by conforming to which all the advantages of social support and mutual encouragement can be enjoyed to the fullest extent without abandoning vice. It should be the policy of the true reformer to break down everything that tends to impart uniformity and regularity to the prostitute's life; to favour all that tends to promote individual life and action; and to provide that each woman shall be habitually treated as if she stood alone and apart from every fellow-sinner, not, of course, by way of checking sympathy or discouraging mutual help, but solely in order to prohibit mutual encouragement in a course of continued sin.

CHAPTER III.

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LAW AND POLICE.

It will have been sufficiently understood, from the lineaments of the general system of the State regulation of Vice which have been sketched out in the previous chapter, how much of the burden of the work rests upon the police. It is not saying too much to allege that the system depends, for its very possibility, more upon a high degree of police organisation than upon any other single condition. Whether the police organisation can, for a vast extension of the system, ever be fine enough for its purpose, or whether the very existence of such an organisation does not breed dangers to public liberty which no constitutionally-governed country can tolerate, are questions to which some answers will be attempted in the course of the present chapter.

The first step in carrying the system into operation is to draw a line between those who are to be treated as prostitutes and those who are not. This involves a definition of the term *prostitute*, and induces a proportionate amount of variety and vacillation in the application of the system in different countries, and even in different parts of the same country. Even in England, and within the limits of the corps of Metropolitan Police, the evidence produced before the Royal Commission showed that the police, as among themselves, attached very different meanings to the same

LEGAL DEFINITION OF A PROSTITUTE.

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INSPECTOR
ANNIS.SUPERIN-
TENDENT
WAKEFORD.SUPERIN-
TENDENT
MACDONALD.

term. Inspector Annis (A. 645-651) would immediately put on the register a woman "who receives" men in a private way in her own house, if she cohabits "with different men." Superintendent Wakeford, while saying at one time (A. 43-51), that "a common prostitute is a woman that we have several concurrent" proofs is a prostitute," says, later on (A. 184, 426), that he would bring under the Acts "a woman who obtains part of her livelihood by honest employment" . . . if she commits immorality with a man," and he would regard "as in some degree a prostitute a woman who goes with more than one man, however" occasionally." Superintendent Macdonald (A. 10,261, 10,262), says, "The Act goes further than 'prostitute;' it is 'common prostitute.' My own idea of a common prostitute is a woman who is obtaining a living by prostituting her body for gain." And when asked, "It would not then be enough, in your opinion, that she should obtain money occasionally or in individual cases from such use of her body, but it must be to obtain her ordinary living?" He answers, "To obtain her ordinary living. I may pass a woman who adds to her gains by prostitution as a common prostitute. If she went out into the streets and solicited custom, although she was gaining part of her living by other employment, I should certainly think she was a common prostitute. But where a woman was in the habit of meeting a man in the High-street, Portsmouth, and adjourning to a place we knew well to be a brothel, that act of the woman, or that act repeated, would not be sufficient, in my estimation, to make her a common prostitute. It must be something more than that, she must be common to any person who likes to hire her." Inspector Smith again (A. 14,277-14,466) would not "consider a woman to be a common prostitute without she conducted herself in a common way," and would not bring a private prostitute who is visited by various men at her own

lodgings under the Acts unless she frequented "common brothels" or "houses of accommodation," or solicited in the streets, or in "some way did precisely the same thing as common prostitutes do."

The only comment that need be made at present upon this discrepancy of practice in a matter so vital to the liberty and character of women is that it is essential to the working of the system; because the adherence to any rigid definition of a prostitute—such as those given in the Towns Police Clauses Act (10 & 11 Vict. c. 89, s. 28), and the Vagrant Act (5 Geo. IV., c. 83, s. 3)—the application of which in any given case could be strictly tested in a court of justice, must not only demand of the police an extraordinary amount of circumspection and discretion, but must result in limiting the number of registrations to a point wholly incompatible with a plausible show of medical efficacy. The medical object is to include all doubtful as well as all obvious cases of prostitution; and this can only be achieved by conceding to the police the right of making their own definition, subject only to the necessity of not grossly outraging public opinion, and of securing a tolerable amount of harmony of action among themselves.

It is interesting to find (as has been already stated) M. LECOUR AND THE FRENCH DOCTORS. M. Lecour, who looks at the matter solely from the point of view of a police superintendent, complaining almost bitterly of the unsympathetic or ignorant way in which medical men speak of the primary difficulties of the police in making their arrests or enforcing registration. He says (*"De l'état actuel de la Prostitution Parisienne,"* p. 47), "In their works on prostitution, medical men take good care to keep entirely clear of this matter of arrest; they scarcely ever speak of it, whether in connection with registration or with sending to the hospital. One would suppose that those measures which almost always call forth resistance,

CHAP. III. "and which sometimes present the greatest difficulties
 " of execution, were easily carried out, with very little
 " effort and by means of a simple word of command."

DR. JEANNEL
 ON ARRESTS.

To do Dr. Jeannel justice, he not only cites M. Lecour himself in proof of the administrative difficulties besetting the original arrest, but makes it plain that he himself thoroughly understands them. He says (p. 315), "In
 " a word, the decision which converts a woman, more
 " or less abandoned, into a public prostitute, and attaches to her an indelible mark of infamy, giving her
 " over to the arbitrary control of the police, is one of
 " their gravest and most delicate functions." But he sees no remedy for it, except in improving the character of the police, and amending the regulations they apply. "I have made it clear that an arbitrary control on the
 " part of the police is inevitable, inasmuch as the law
 " cannot lay down the conditions for toleration without
 " in principle allowing of prostitution." This curious and wholly untenable distinction, between the moral responsibility adverse to prostitution supposed to reside in the abstract "Law," and the entire absence of all moral or other responsibility in the administrative agents it employs, is a condition of Continental thought on this subject which has done much to confound the workings of the public conscience. No such confusion is possible in England, or is recognised by the English Acts. If prostitution is allowed and supported by the aid of police machinery in England, it is the State alone which does it by law, and it is by abrogating the law that the State can alone publicly undo it.

REGISTRATION
 IN
 BERLIN.

According to an official report furnished to Mr. Acton through the British Embassy at Berlin, and published in his work (pp. 140-144), it appears that while in 1867 the whole population of Berlin was 702,000, the number of registered prostitutes was 1639; "the number of females strongly suspected of
 " prostitution, and who were, therefore, under the cen-

"sorship of the police, was at the end of last month
 " (July, 1869) 13,538. But there are besides a great
 " number of females who, by their outward appearance
 " and mode of living, excite a reasonable suspicion that
 " they are addicted to prostitution, but who carry on
 " the business with such circumspection that the police
 " have no cause for interference. Amongst these are
 " to be reckoned the greater number of dressmakers,
 " milliners, deserted wives and barmaids, &c. Their
 " number may be computed at 12,000." Supposing
 these suspicions are correct, this calculation would
 raise the number of women who at the date named
 were more or less engaged in prostitution up to
 27,000; and it is not saying too much to assert that,
 if the system of regulated prostitution is, upon its own
 medical theory, to have the slightest chance of success,
 every one of these women must be brought under
 periodical examination at not less than, at the most,
 three days' interval. Of all these, however, only 1639
 were actually subjected to examination. M. Lecour
 gives the number of women in Paris who were actually
 on the register in the year 1869 as only 3731 (" *La*
Prostitution à Paris et à Londres," p. 254), though the
 number of arrests made in 1873 was over 12,000.
 The Commissioner of Metropolitan Police in his report
 for 1873 says, "the presence of the officers employed is
 " well known to the classes of girls most likely to go
 " astray, and the dread of detection is very salutary; in
 " proof of this, young women in the position of domestic
 " servants and others, after nightfall, leave their male
 " acquaintances directly the police employed under the
 " Acts appear in sight."

M. LECOUR ON
 THE ARRESTS
 IN PARIS.

The general result of reports and statistics as bearing
 on the actual practice of the police in Germany,
 France, and England, is that outside the margin of the
 prostitutes actually registered there is a very wide
 fringe of women belonging to important classes of

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society whose liberties are recognised as being hourly in the hands of the police, and subject either to the varying interpretation the police may chance, from time to time, to place upon the term *prostitute*, or to the caprice, idiosyncrasy, or shifting policy of successive superintendents of the force. The French writers on the subject are full of the accounts of different policies introduced by successive Prefects of eminence, especially in relation to the very difficult subject of the registration of minors. Furthermore, the medical requirements of the system imperiously demand the registration, if it were possible, of all women who form this fringe of prostitution; and it must be expected that, in the long run, the pressure of the medical authorities must induce the police to extend their interpretation of the term *prostitute* rather than to contract it.

MODES OF
REGISTRATION.

The next question that is presented is as to how the registration is actually accomplished, and what sort of judicial check is provided in order to prevent or to punish abuses. According to the prevalent type of the system abroad, the inscription is said to be either "voluntary or official." The former (*inscription volontaire*) includes the cases of women who apply for registration and of those on behalf of whom applications are made by mistresses of licensed houses. The latter only includes the cases in which the police inscribe a woman on the register against her wishes. The first mode of inscription seems to cover the most numerous cases, though the proportions vary considerably in the different towns. For instance, at Bordeaux during a period of seven years from 1855 to 1861, out of 1216 inscriptions 1005 were voluntary and 211 official. In Paris during sixteen years, 11,824 inscriptions were voluntary and only 720 official. M. Lecour tells us (" *État Actuel*," p. 257) that, "As things now are, "voluntary inscriptions are becoming less frequent, and,

BORDEAUX
AND PARIS.

“ what is a more serious consideration, a habit of obstinate resistance to registration is manifesting itself which is quite unprecedented.” CHAP. III.

It seems, however, that these so-called “ voluntary inscriptions ” are generally about as voluntary as the last wearied collapse of the fox when he is forced to give up the chase. Dr. Jeannel ominously says (p. 323), “ Most frequently the clandestine prostitute, pursued and tracked by police agents, comes of her own accord to claim the registration which confers upon her the right to enrol herself in a licensed house, or to frequent houses of accommodation, or to traffic with her person at her own residence without being disturbed, on condition of complying with the regulations which govern public prostitution, and, especially, of submitting herself to the periodical examinations.” There is no hypocrisy in this. The registration is merely called “ voluntary ” in order to show that in the last step which leads to the registration, the initiative is taken by the woman and not by the police. In which ever way the registration is effected, no judicial authority intervenes, and in no case need, nor can, the registration be made an order of a Court of Justice. Even though the consequence of registration is liability to the alternative of a series of surgical examinations or of imprisonment, the police are held fully competent to enforce the registration, and, without any opportunity for appeal, to carry into effect all its consequences. In Geneva VOLUNTARY
INSCRIPTION.

indeed, on the last revision of the Penal Code in 1874, the power of imprisonment for disobedience to any of these regulations has been abolished altogether owing to the exertions and arguments of Professor Hornuing. But this introduces an anomalous state of things which, if persisted in, must lead to an abandonment of the whole system. PENAL CODE
OF GENEVA.

The English form of the system has had to contend with very different notions of the relation of the Police

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to Law and to Courts of Justice from any that, as yet, prevail in Continental countries; but the ingenious founders of the system in this country have done their best to pay an indispensable amount of apparent homage to the constitution of the country while escaping from the judicial trammels which the theory of this constitution, if at all strictly complied with, must involve.

MODES OF
REGISTRATION
IN ENGLAND.

There are two ways by which, in England, a woman may become registered as a prostitute for the purpose of undergoing periodical examinations. Either a formal judicial process may be instituted, the result of which is a sentence directing her registration; or the form may be gone through of procuring the woman's written consent, in which case no Court of Justice intervenes at all from first to last. The first step in the formal judicial process is the laying of an "Information on oath before a Justice by a superintendent of police charging to the effect that the informant has good cause to believe that a woman therein named is a common prostitute." The Justice may then, "if he thinks fit," summon the woman; and on the woman's appearance, either in person or by some one in her behalf, or on it being proved that the summons was duly served, the Justice present, "on oath being made before him substantiating the matter of the information to his satisfaction, may, if he thinks fit, order that the woman be subject to a periodical medical examination for any period not exceeding one year." The Court before which the truth is inquired into of any statements contained in an information or application against or by a woman is "not deemed an open Court unless the woman so desires." Any action or prosecution against any person for anything done in pursuance or execution or intended execution of the Act "must be commenced within three months after the thing done."

A few observations will suffice with respect to these proceedings, which in fact are of very small importance,

29 VICT. c. 35,
s. 15.

inasmuch as the vast mass of the women are brought under the system by another far more efficient method shortly to be described—or the system could not be worked at all. In the first place it has been argued—and the letter of the law certainly upholds the interpretation—that the “matter of the information,” which has to be substantiated before the justice at the second sitting, is not the fact of the woman’s prostitution, but the fact of the police officer having “good cause” to believe it. In this way, every woman, however blameless, is practically in the hands of the police; and dependent for her character and liberty on the chance information, often gathered from profligate men, which happens to come in the way of the police. Of course this is only an incident, and perhaps an undesigned one, of the law as it now exists, and it might be amended; but it is instructive, as showing the severe methods in vogue among those who construct laws of this kind, and the trifling thought given to considerations of public liberty and justice.

Again, it rests with the policeman, who may obtain his information from the most corrupt and unworthy quarters, and yet be unable to sift its value, to put any woman he pleases on her trial. In any case it is a serious position to have to encounter a charge which, if true, carries with it penal consequences and infamy. The English constitution has strained its utmost, and has attained its most note-worthy triumphs in its efforts, to shelter the innocent while securing the punishment of the guilty. While a less diligent care is shown in this respect in the matter of a mere breach of the minor regulations for public order and convenience,—so as to ensure the greatest available promptitude of decision in all those cases, at least, in which neither good fame nor public liberty are seriously at stake,—in all those other cases in which even suspicion casts a cloud over the fairest name, and conviction implies ruin, a delicacy of consideration for the accused, and

ENGLISH
SECURITIES
FOR INNO-
CENCE.

CHAP. III. a self-restrained cautiousness in all proceedings is manifested, which, largely criticised as it is, is none the less the marvel and the envy of the whole civilised world. If any principle is inherent in the English constitution it is that, in all matters in which good fame or personal liberty are seriously involved, the most scrupulous care is demanded of the law itself, and of every administrator of the law, that every presumption be made in favour of innocence, and that no person be convicted without being brought face to face with his or her accuser, and having a full and free opportunity given of rebutting the charge.

ENGLISH CON-
DITIONAL
SAFE-GUARDS.

The provisions contained in some celebrated clauses of Magna Charta, the institution of Trial by Jury, the doctrine and procedure of the *Habeas Corpus* Acts, the claims announced in the Bill of Rights, great and precious as they are, are only modes, more or less valuable, of enunciating and substantiating principles far deeper and more lasting than themselves. Trial by Jury has been largely curtailed in its operation, with very general assent. Magna Charta itself is little more than a curious antiquarian relic. The *Habeas Corpus* Acts have only a very circumscribed operation; and the Bill of Rights, at the most, affirmed rather than modified the law. But the claims of the private citizen not to have his or her liberty infringed, good fame confiscated, or person violated, except after a fair trial at which the accuser and the accused are brought face to face; the judicial abhorrence of police pressure, and the favourable presumption made and even strained in favour of innocence; these are the lasting and indestructible products which those great constitutional documents and institutions at once express and vindicate. It is on account of this that they have been translated afresh into written language and imported into the framework of the constitution of the United States and of every component State of the American Union.

Under the system of licensed prostitution, as it exists in certain districts of England, the police may put any woman, as to whom they have received information satisfactory to themselves, on her trial as a common prostitute. She can be condemned as a common prostitute in her absence ; and even if she be present, the whole procedure supposes, not that the police have to establish their case in order to destroy the presumption of the woman's innocence, but that the woman has to meet the oath of the superintendent by repelling the presumption it raises of her guilt. It rests entirely with the Justice whether he will require the superintendent to furnish any evidence, and what sort or degree of evidence, to confirm his oath.

Such a gross scandal on public justice would have been impossible in this country had not certain ingenious devices been resorted to in order to disguise its true nature. It is said that it is all very well to have securities, checks, constitutional safeguards in the case of alleged breaches of the criminal law ; but prostitution is no *crime*, and the woman is not proceeded against as a *criminal*. The jurisdiction is entirely novel ; the necessity of it was unsuspected by the well-meaning persons who helped to build up the British constitution ; and, had they appreciated the necessity as modern lawgivers must and do, they would have found a loophole in their rigid principles for purely sanitary measures like these.

As M. Lecour has pointed out in the passage already cited, it cannot be too often repeated that, whatever may be the proper medical treatment of a prostitute when she is discovered, the question whether a given woman does or does not satisfy the description given in a written police regulation, or in the terms of an Act of Parliament, so as to be brought within the range of a rule or a law applicable solely to women of that description, is a strictly legal, and not a medical question. It concerns, partly, the interpretation of written

A LEGAL AND
NOT A
MEDICAL
QUESTION.

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law, and, partly, the legal mode of conducting the inquiry and receiving evidence. It would be a poor notion to entertain of the political efficacy of the English constitution to suppose that its principles in favour of personal liberty could be evaded and hoodwinked by writing out the word *crime*, and writing in the words *abuse of sanitary regulations*. The question before the Court of Justice is whether a woman, legally presumed to be honest and innocent, is, by a single judicial act, to be for (possibly) a whole year exposed to the alternative of surrendering herself at longer or shorter intervals to a surgical violation of her person,—combined with the impossibility of earning a respectable livelihood,—or of imprisonment with or without hard labour. It is difficult to picture an occasion for which stricter judicial processes, or more searching methods for testing and comparing evidence, are demanded. True it is that, were the claims of common justice and the rooted principles of the British constitution really deferred to, the inquiries which must result would be an intolerable public scandal; and the obstacles to obtaining a number of convictions sufficient for the sanitary end in view, would be insuperable. This is thoroughly appreciated by the leading advocates of the system, and, on this account, they rest all their hopes on still more objectionable methods, in conformity with which the whole transaction takes place between the woman and the police alone, and no responsible magistrate intervenes at all.

DR. VINTRAS
ON PROCE-
DURE.

Dr. Vintras (in his work on "*Prostitution in London and New York*," p. 3) says, "Moreover if this jurisdiction conferred on the municipal authorities did not exist, if the facts upon which its exercise is founded were referred to a Court of Law, the regulations themselves would practically be null and void, and the real object of the Legislature would be

“entirely lost. Who, indeed, would venture to discuss before public audiences in the Courts, incidents, the bare enunciation of which would be an offence against morality, and the proof of which could not be judicially established except at the cost of the happiness and the honour of families? Such inquiries also must necessarily be a school of immorality for the young. . . . Thus it is seen that in every particular the power exercised by the executive is vindicated by a consideration both of necessity and legality.”

It is, perhaps, a superfluous comment on this passage to notice that it is a new fashion of law-making in this country to provide that because judicial proof cannot be obtained except at the cost of the happiness and the honour of families, therefore the happiness and the honour of the poorer classes of women and of their families may be sacrificed without any judicial proof at all.

The language of Parent-Duchatelet, in relation to this part of the subject is extremely curious, and he evidently supposed that by calling things different names he quite altered their nature and got rid of the objections to them. The passage occurs in his chapter on the “Insufficiency of the authority now accorded by law to the Prefect of Police for the repression of Prostitution.” “In the absence of the judge this (administrative) authority must take his place; if it does not deliver formal judgments, it arrives at decisions; if it does not apply legal penalties, it inflicts chastisements; if it does not pronounce sentences of imprisonment, it orders seclusion. Can this be called an arbitrary authority?” And, again, “Ought one to extend the jurisdiction of Police Courts in order to have these sorts of offences tried in them? The same inconveniences present themselves with the same force. The inconveniences inherent in this mode of repression are so serious that on reflecting upon them

PARENT-DU-
CHATELET ON
THE FUNC-
TIONS OF THE
POLICE.

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“one rejects the idea of committing to the judicial authority the cognisance of offences of this nature. Consider only that the delinquents are numbered by thousands, that they are incessantly relapsing; that they need to be constantly watched, and the penalties proportioned to their antecedents, their habits, their excesses, their state of degradation, and effrontery, and, especially, to the greater or less variety of cases in which they appear. Would it be possible for a magistrate to take into account all these circumstances? Could he relieve himself of the judicial formalities needed for establishing the fact, for making a record of the proceedings, and for pronouncing sentence? In cases of this sort what writings, what delays, what lost time! And in the matter of prostitution all punishment is illusory which does not at once follow the offence.” The old story again incessantly recurs that the arbitrary, rough, and reckless administration of justice is good enough for the poorer classes of women, because the system could not be worked if the imperative demands of true public justice were complied with.

The best practical admission by Englishmen of the impotency of Courts of Justice for the task here imposed upon them is supplied by the recourse to the second method above alluded to, by which women are brought under the system. It closely resembles that of the “voluntary inscription,” but will be seen to be of a far more dangerous and hypocritical kind.

29 VICT. C. 35,
S. 17. ON
VOLUNTARY
SUBMISSION.

The English Act of 1866 (29 Vict. c. 35, s. 17) says, “Any woman in any place to which this Act applies, may voluntarily, by a submission in writing signed by her and attested by the Superintendent of Police, subject herself to a periodical medical examination under this Act for any period not exceeding one year.” The submission is as follows (Schedule 2, Form H.) :—

“ I, A. B. , of , in pursuance of CHAP. III.
“ the above-mentioned Act (the Contagious Diseases
“ Act, 1866), by this submission, voluntarily subject FORM OF
“ myself to a periodical medical examination by the VOLUNTARY
SUBMISSION.
“ visiting surgeon for [*Portsmouth, as the case may be*]
“ for calendar months from the date hereof.
“ Dated this day of 18 .
“ Signed
“ Witness, X. Y.,
“ Superintendent of Police for
[*or as the case may be*]”

By the later Act of 1869 (32 & 33 Vict. c. 96, s. 6), such a submission is made to have the same effect as an order of a Justice subjecting the woman to examination; and "all the provisions of the principal Act respecting the attendance of the woman for examination, and her absenting herself to avoid examination, and her refusing or wilfully neglecting to submit herself for examination, and the force of the order subjecting her to examination after imprisonment for such absence, refusal, or neglect, shall apply and be construed accordingly."

It thus appears that, (1) this submission professes to be "voluntary," and, on this ground, all necessity for the interposition of magisterial authority and for an investigation conducted in strict compliance with judicial forms is dispensed with; that (2), the effect of the submission is to convert a woman into a registered prostitute and to impose on her the alternative of surrendering herself to periodical surgical examinations, or of imprisonment with or without hard labour, in exactly the same way as results from a sentence of a competent Court of Justice; that (3), the submission form itself, however brief, is of a highly technical character, and its whole purport must be quite unintelligible to a woman of limited education not

CHAP. III.

VOLUNTARI-
NESS OF THE
SUBMISSION
ESSENTIAL.

RULE OF
ENGLISH LAW
AS TO CON-
FESSIONS.

versed in the system; and that (4) the number of months for which a woman consents to be registered is left to be filled in, by what must, in practice, be a joint arrangement between the woman and the police, and in concluding which the initiative is likely enough to be taken by the police.

The real *voluntariness* of the submission, so far as the question of public liberty is involved, is of the utmost importance. Assuming that a class of registered prostitutes is to be created by law,—a policy which has already been discussed on its own grounds,—it never can be allowed that this class should be recruited by any other methods than that of a judicial sentence or (at the least) of a truly spontaneous act on the part of the woman joining the class. Any sort of inducement, pressure, terrorism, or even undue influence,—to lay out of account corruption or fraud,—proceeding from the official who obtains and attests the submission, must not only wholly impair the spontaneity of the act, but must afford the most dangerous openings for encroachments on public liberty. The consequence of signing the submission is not only a public self-devotion to a life of profligacy for a definite number of months, but it involves strictly penal consequences which must take one of two forms at the woman's option,—surgical handling of her person, or imprisonment with or without hard labour. The doctrine that a confession which involves penal consequences must not only be scrupulously tested in all ways, but must be rejected as of course, if any threat or inducement has been held out by a person in authority to whom it is made, is one of the most inviolable and best established principles of English law; and it is maintained quite as much on behalf of the public generally as on that of special persons who might now and again suffer from a too ready admission of extorted confessions. The leading text-book on the English Law of Evidence (see

“Taylor’s *Evidence*,” Part II., cap. xv.) lays down the immutable principles of English law, in reference to confessions, in the following language.

“Before any confession can be received in evidence in a criminal case, it must be shown to have been *voluntarily* made; for, to adopt the somewhat inflated language of Chief Baron Eyre, ‘a confession, forced from the mind by the flattery of hope, or by the torture of fear, comes in so questionable a shape, when it is to be considered as the evidence of guilt, that no credit ought to be given to it; and therefore it is rejected.’ The material question, consequently is, whether the confession has been obtained by the influence of hope or fear; and the evidence to this point, being in its nature preliminary, is, as we have seen, addressed to the judge, who will require the prosecutor to show affirmatively to his satisfaction that the statement was not made under the influence of an improper inducement, and who, in the event of any doubt subsisting on this head, will reject the confession. . . . It is very clear that if the promise or threat be made by anyone having authority over the prisoner in connection with the prosecution, as, for instance, by the prosecutor, the master or mistress of the prisoner, when the offence concerns the master or mistress, the constable, or other officer having him in custody, a magistrate, or the like, the confession will be rejected as not being voluntary.”

Of course it may be replied that this is not a criminal case, and, therefore, so strict a rule need not and does not apply. But this is one of the very hardships to which attention is here called. Through the task of registering prostitutes being committed so largely,—in practice, all but exclusively,—to the police, women are induced to surrender themselves to a life of infamy and to the penal liabilities of various kinds which are made to accompany it, upon evidence which, just

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NO JUDICIAL
INTERVENTION.

because the case is not technically entitled *criminal*, is exempted from all the checks and tests to which so notoriously worthless a class of evidence is, in all strictly criminal cases, subjected as a matter of course. Indeed, the injustice is so great as that no opportunity is ever presented for disputing before a Court of Justice the nature of the circumstances under which the submission was procured. All the elements of pressure and influence are present in an aggravated form. The woman is likely enough to be isolated, ignorant, cowed, and helpless. The Superintendent of Police is, probably, sagacious and experienced. The submission form, alluding, as it does, to the "Contagious Diseases Act," a "periodical medical examination," "visiting surgeon," and the like, must owe any comprehensibility it possesses for a woman not previously entrapped, solely to such explanations and comments as the able superintendent indulgently chooses to impart.

It stands to reason that the signature of the form is nothing else than the last stage of a foregone determination by the superintendent that the woman is a proper woman to include in the class of registered prostitutes. Indeed, it only differs from the Continental "voluntary inscription," already alluded to as being the most common form of registration abroad, in the very misleading impression of freedom of assent which it succeeds in conveying, and in the mode in which it surreptitiously contrives to rob women of the right of a formal magisterial investigation conceded them by the Act. No such right as this latter exists abroad, and therefore the "voluntary inscription" cannot be treated there as a subterfuge for evading a common recourse to it.

That the circumstances attending the signature of the submission form are really and in fact what the nature of it sufficiently demonstrates they must be, was abundantly established before the Royal Commission of 1871, by Magistrates, by Superintendents of

Police, and by other persons engaged in the adminis- CHAP. III.
tration of the Act.

Thus, Mr. Ryder, a Magistrate of Devonport, who MR. RYDER'S
EVIDENCE ON
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SUBMISSION.
was generally in favour of extending the system, when asked (Q. 8274) "Are you aware of the mode in which the women are brought under the Act?" says, "I believe that almost every woman who has been brought before the justices has complained that she has signed the submission without being aware of what she was doing. That has been the invariable statement of almost all. That one must receive with a certain amount of allowance, but there is evidently the feeling that they are entrapped into the signing of this submission. I very much question, from enquiries I have made, whether it is so, but I understand, like many other things, it is made a mere matter of form. They are told there is the paper to sign, and they sign it without its being read to them."

Superintendent Wakeford gives the following evi- SUPERIN-
TENDENT
WAKEFORD.
dence: (Q. 328) "When a woman signs the voluntary submission, for what period do you generally fill up the form?" - "One year." (Q. 329) "When the Act says the woman may choose any other period less than twelve months, how is it that you choose to fill it up for the year? How is it you always fill it up for the longest period you can?" "If the woman expresses no objection we should give a preference to its being a long period." (Q. 330) "Is it ever explained to her that she might only fill it up for a month or three months?" "I cannot say that women are invited to fill it up for a shorter period." (Q. 331) "Are they invited to fill it up for the longest period?" "They are invited to fill it up for the longest period." (Q. 332) "But they are not told that they may fill it up for a shorter period. You induce them to fill it up for twelve months?" "I

CHAP. III. "invite them." And Inspector Annis gives evidence to exactly the same effect, saying: (A. 9277) "As
"a rule I make the submissions for twelve months."

MR. WOLFER-
STAN.

The evidence of Mr. Wolferstan, House Surgeon for four years at the Royal Albert Hospital, Devonport, is in entire accordance with that of the Magistrates and the Police. He says, speaking of the voluntary submission: (A. 3033-3035) "The women have often told me
"that they did not know what they were signing."
"Many of them could not read." He "believed it
"was not the practice to explain to them the nature of
"the paper to which they are about to affix their signa-
"ture." (A. 3038) "Cases have frequently occurred
"in which a woman has complained to me that she has
"signed a paper the meaning of which she did not
"know." (A. 3047) "I think, if the submission is to
"be purely voluntary it should be signed by some
"person who will vouch for its voluntary character.
"The Police are the only people who can extort it by
"threats." (A. 3054) "I object to the voluntary sub-
"mission entirely. I think if a voluntary submission
"is to be taken at all, there should be safeguards to
"show that it is strictly voluntary. Now, the returns
"of Colonel Henderson, of the Metropolitan Police,
"show that out of two thousand and odd women only
"four refused to sign this so-called voluntary submis-
"sion." (A. 3055, 3056) "I think the greater number
"of those women who sign the voluntary submission
"were induced to do so by pressure, and that many of
"them were ignorant of the character of the document
"which they signed."

IN WHAT SENSE
SUBMISSION IS
VOLUNTARY.

There are one or two still more patent tokens that the (so-called) "voluntary" submission is only voluntary in the sense that a choice is, in outward appearance, left to the woman whether she will be proceeded against by help of judicial forms or without them. Thus, in the House of Commons' return of proceedings

under the Acts (No. 388, July 27th, 1871), a column appears headed "Women proceeded against *for refusing to sign the voluntary submission form*;" and in the printed instructions issued by the War Office and the Admiralty, and suspended in the Royal Albert Hospital—which have since, however, been withdrawn—appeared the following passage (Report of Royal Commission, Appendix (p. 829)) :—

WAR OFFICE
INSTRUCTIONS.

"Should any woman object to sign, she is to be informed of *the penal consequences* attending such refusal, and the advantages of a voluntary submission are to be pointed out to her."

The fact is that the medical success of the system could not be exposed to the hazard of a genuine voluntary system, and it is not only a mistake but a serious imposition on the unthinking and unobservant public to use the term "voluntary" at all. Of course there may be cases here and there, or even a considerable sprinkling of them, in which women really desire and request registration in order to come under the sanitary arrangements provided by law, and sometimes in order to secure the connivance of the police in pursuing their strictly illegal occupation. It is also likely enough that the superintendent of police charged with these special duties will be, so long as the system is yet new and on its trial, selected from among the most picked men in the force; and while the area to which the system is applied is limited, a superior class of men may always be expected to be forthcoming. But that women practising prostitution desire as a class to put themselves under police regulations, to engage to appear at short periods for surgical examinations and to register themselves as prostitutes for the longest possible time in advance, is in direct conflict with every scrap of evidence supplied by all those who are best conversant with the habits of prostitutes in all countries as well as with the conclusions of common

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sense. The notorious difficulty of persuading the "*insoumise*" or clandestine prostitute to consent to inscription seems to make the most enraptured adherents of the system abroad quail before the obstacles in the way of even giving it a fair trial.

ASPECTS OF
ENGLISH LAW
TOWARDS THE
POLICE.

Whatever virtues may be attributed to police superintendents as a class, it is obvious, that, as the system is extended, a less and less exceptional class of police agents can be secured to administer it; and, even if the class of men could be maintained at an invariably high pitch of excellence, yet this would still be the first time, since the English constitution was fully formed, that the liberty and good fame of English citizens has been entrusted, not to constitutional guarantees under the guardianship of Courts of Justice, but to the casual discretion and humanity of the police, or to the excellence of the appointments made by the Executive for the time being. It is rather the characteristic merit of the English constitution that, in respect of any administrative action which may, by its consequences, affect the liberty and good fame of a private citizen, the duties of the police are rigorously defined by law, and exactly interpreted by Courts of Justice, and either excess or neglect in the performance of them is made punishable by legal penalties. It must be allowed that the act of tendering to a woman for signature a "voluntary submission form" is an act in which personal liberty and good fame are as seriously involved as they can be in any imaginable case. Yet it is here, where the guarantees against undue influence, mistake, or imposture, ought to be the surest, that they suddenly fail altogether. There are literally no constitutional or legal guarantees whatever. The injury is done and persisted in long before the tardy and severely circumscribed remedy by action at law—a remedy absurdly inadequate in this case—can be so much as set on foot.

The real explanation of all this is that in England, as in France and wherever else the system is in existence, its operation for the sanitary end in view is wholly incompatible with constitutional liberty, unless it be alleged that constitutional liberty is a boon for men and the richer classes of women only, and not for all. The purpose of the system as a sanitary device is to go to the utmost confines of prostitution, and to bring every woman liable to communicate disease within the *régime* of the periodical examinations and contingent hospital treatment. If the system is worked in harmony with its objects, if the police and the medical supporters of the system are in accord, the police are bound to use every kind of influence, and even pressure, to induce women to pass into the net. It is here that the medical objects actually in view, and the moral objects which ought to be—and are sometimes said to be—in view, are in direct and irreconcilable conflict with each other. It cannot be for the moral interests of a woman, hesitating on the brink of a life of prostitution, to force her to decide irrevocably in favour of adopting that life for a definitely prescribed time. It cannot be for the moral interests of a woman to make her feel she has ever taken any one last decisive step which instantly separates her from the family associations belonging to a life of purity, and introduces her into a world of new and distinct companionships, liabilities, duties, and even privileges. It cannot be for the moral interests of a woman practically to bind her to adopt a life of prostitution for a definite time, to make that time longer rather than shorter, and to leave it entirely to the will of others, whether police or medical officers, to determine whether she shall at any moment be treated as having shaken off for ever the life of sin.

MORAL AND
SANITARY
ENDS INCOM-
PATIBLE.

But though the acts of forcing a woman to an irrevocable decision, of binding her formally and definitely for a prescribed time to a new class of associations wholly

CHAP. III. distinct from those with which her home life makes her familiar, and of making her liberation from these vitiating surroundings dependent on the will of others more than on her own, are wholly opposed to the moral interests of the woman herself, and therefore of society at large, they are conducive in the highest degree, or rather indispensable, to the success of the system as a sanitary device, on the medical hypothesis adopted—whether that be good or bad.

DISMISSAL
FROM THE
REGISTER.

Even were every guarantee which is afforded in the case of a technically criminal prosecution secured to a woman accused of living the life of a prostitute, and were she registered only after a fair trial, still the system presupposes that if she wishes to leave the life she must satisfy others as well as herself of her *bonâ fide* intentions; and it has been seen that a natural abuse of the system leads the police to induce and urge women to engage to submit to the examinations for the longest period limited by law. Of course, a woman cannot but conclude, supposing she understands in a measure the nature of the engagement, that she has engaged not only to submit to periodical examinations in the event of her continuing to be a prostitute, but that she has engaged absolutely to submit to them, that is, to continue the life of prostitution which they presuppose. And the process of shaking off the life is—for the medical purposes of the system—necessarily made so stringent and arduous that there is everything to teach her that the State would far prefer her continuing a prostitute to her ceasing to be one. Indeed, if a woman comes under any beneficial influence or undergoes a change in her fortunes or determines from whatever cause to start on a new path, she cannot do so without delay, obstacles, and the risk of encountering capricious, if not malevolent or corrupt, opposition on the part of public officials.

This will be more clear from a study of the regula-

tions and the practice on the Continent and the provisions of the English Act in respect of dismissals from the Register (*radiations*). M. Lecour (*La Prostitution à Paris et à Londres*, p. 123) says "Nothing is more delicate than the enquiries to be made in respect of dismissal from the register. Want of discretion might cause notoriety and a mishap, for, in some cases, it would fetter and compromise a prostitute in recovering habits of honest industry. There are, besides, degrees in the scale of recovery. On quitting a life of profligacy, a woman cannot, at one step, reach a position which would offer moral and material guarantees of a decisive kind; so the police must take its share in the difficulties of the case, proceed with address, and, in fact, co-operate with the efforts at recovery made by the woman herself. It is a moral and humane task, the accomplishment of which escapes attention."

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M. LECOUR.

The products of these discreet and humane efforts of the police do not seem very numerous in Paris; or else the women are too hardened to avail themselves of the succour offered them. According to the statistics of "radiations" given by M. Lecour (p. 123) for the year 1869, out of a total of 800, 115 died, 16 married, 46 left the city without a passport, 2 were sentenced to prolonged punishments, 12 were admitted to asylums in connection with hospitals, 1 became the mistress of a licensed house, 607 failed for more than three months to present themselves at the periodical examinations, and only 1 is entered as "abandoning prostitution on proof of having other means of existence." In the years 1863 and 1867, not even one is entered under this last head. The number of registered prostitutes in 1869 was 3731. Thus between a quarter and a fifth disappeared from the roll in the course of the year, about three-fourths of these simply refusing to present themselves for examination, and succeeding in evading the vigilance of the police. It may thus be presumed that

STATISTICS OF
DISMISSAL IN
PARIS.

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in Paris, at least, when a woman really determines to quit a life of prostitution she does it in spite of the police and not with their co-operation.

ITALIAN REGULATIONS.

In Italy, Belgium, and some other countries a definite period of probation is imposed, during which the woman still continues subject to periodical examinations, and to police supervision. Thus by Art. 34 of the Italian Regulations (see Appendix), "When a prostitute desires to be relieved from the sanitary examination, she shall present her request to the office, stating the new abode she intends choosing, her means of maintenance, or the occupation by which she hopes to support herself." By Art. 35: "The woman who requests to be relieved from the ordinary examination because she intends to abandon prostitution, shall, during three months, remain subject to one examination weekly at the sanitary office, at an hour reserved exclusively for the examination of women who are candidates for this dispensation." By Art. 36: "The cancelling of the registration shall take place after the lapse of this period, if the conduct of the woman has always been regular; that is to say, if it does not appear that she has continued to prostitute herself."

BRUSSELS REGULATIONS.

This practice of actually continuing to subject, as of course, to a weekly surgical examination a woman who may, in all other respects, have entirely rid herself of her past associations, and be conducting herself as a respectable member of society, is a noticeable instance of the way in which the secrecy which has hitherto enveloped the whole system has allowed the growth of extravagances of police usurpation which never could subsist in the light of full public discussion. The medical requirements are paramount, and all the personal rights of the woman are simply ignored. The Brussels Regulations (see Appendix) provide that "when a registered woman wishes to be removed from the register, she must make an application to the

“ Council of Burgomasters and Sheriffs, who shall
 “ decide on the case as shall be fit. The removal from
 “ the register shall, as a matter of course, take place in
 “ case of death or marriage.” In Italy also marriage
 exempts from examination.

CHAP. III.

In England there are two ways in which alone
 a woman, not at the time in hospital, can be relieved
 from the necessity of appearing for examination; one
 (under the Act of 1866, section 33), by applying to
 a Justice, and inviting a formal judicial enquiry as to
 whether she has ceased to be a common prostitute and
 whether she is able to enter into recognisances, with or
 without sureties, for her good behaviour during three
 months thereafter; the other (under the Act of 1869,
 section 9), by applying to the visiting surgeon of a
 certified hospital, who delivers a copy of the applica-
 tion to the superintendent of police, and, on receiving
 a satisfactory report from him that the woman has
 ceased to be a common prostitute, signs an order for
 her relief from examination.

ENGLISH
 MODES OF
 DISMISSAL
 FROM
 REGISTER.

It thus appears that before a woman can shorten by
 a day the time for which she is committed to a life of
 prostitution, and to the bodily exposures at stated in-
 tervals which it involves, she must produce either
 evidence or security satisfactory to a magistrate, or she
 must succeed in winning the joint good opinion and
 good wishes of a visiting surgeon and a superintendent
 of police. For the sake of the argument it may be
 granted that surgeons and the higher class of police
 agents are men of exceptional conscientiousness and
 discretion. But it is harsh and unjust in the highest
 degree to throw on a woman, who wishes at a given
 moment to cast off all her miserable and tainted asso-
 ciations, the burden of procuring such evidence of her
 good intentions as shall be sufficient in the estimation
 of two irresponsible judges. It is a case in which the
 path upward ought to be as easy and sloping as pos-

CHAP. III. sible, and yet it is made as precipitous and rugged as it well can be. The reason is plain. The object of the system is to detain all women of hesitating or ambiguous intentions within the ranks of prostitutes, not to dismiss them readily from those ranks.

MR. RYDER'S
EVIDENCE.

The evidence of Mr. Ryder before the Royal Commission, from which extracts have already been given, is valuable on this point as that of a magistrate engaged in the administration of the system and personally in favour of it. On being asked, (Q. 8269) "Are you satisfied with the way in which the Acts are carried into effect by the police?" he says, in the course of a long answer, "Take a case which occurred a very short time ago of a girl called Blewett. An application was served on me to fix a day for her case being heard in order to be relieved from the working of the Acts. When she came up she stated she had been a prostitute, but had abandoned the life, and had gone to live with a person in a private house. The police had followed her there and had made enquiries day after day about her. The effect of it was likely to have driven her back into the streets again."

This is a case which is worth citing not because of any exceptional outrage it discloses, but because it shows, by a visible illustration, what is meant by saying that if the act of quitting a life of prostitution is a matter of indulgence to be allowed, as of grace, on application to a Court of Justice, with proofs or sureties tendered, or, only by the favour of a surgeon and police superintendent conjointly, not only are the actual difficulties of recovering her position multiplied for the prostitute a thousand-fold, but, even when her position is thoroughly recovered and she has, perhaps, for a time left the district and betaken herself to an honest occupation, she is, if found within the district, entirely at the mercy of the police up to the last hour of the time for which the order or the

submission operates against her. Whether the numerous cases alleged of women who, even after marriage, have been dogged from place to place by the police, and of others who, having found an honourable means of subsistence, have been compelled to leave the district,—as the only alternative to surrendering themselves afresh to the examinations or submitting to imprisonment,—have or have not any truth in them, is of very little importance. They represent, if they are all false, the natural and obvious working of the system. Indeed they represent the system as the police, if they are faithful to its objects and their own obligations, are bound to make it. A woman cannot legally liberate herself from the position of a registered prostitute. She must establish a claim to liberation by a proceeding before a Court of Justice, or else by procuring the consent, or conciliating the favour, both of a surgeon and a superintendent of police.

Such is the working of the system so long as it is limited in its application to a few military and naval stations. But when applied to great capitals like Paris, Berlin, and London above all, or extended over the whole of a vast country, the evil becomes of inordinately greater magnitude. Not only must it become practically impossible—as the statistics prove it to be in Paris—for the police ever to enter into the circumstances of individual cases, among the thousands under their charge, with sufficient care to justify them in giving a testimonial in favour of a prostitute's real intention to reform; but as the work becomes larger, and the women subjected to the examination are counted by thousands instead of by hundreds, a lower and ever lower class of police agents must needs be resorted to for the execution of the law, and a proportionately smaller amount of ability, discretion, and humane self-restraint must be forthcoming. The necessary result of applying the system, in the only way in

EXTENSION TO
GREAT
CAPITALS.

CHAP. III. which its medical supporters allege its sanitary excellence can be fairly tested, is that all the women once brought under the system and subjected in one way or another to the periodical examinations must be treated in the mass and by general rules; no one of them can ever be relieved from liability to the examinations till the time for which she was subjected is fully run out; and during the whole of that time every woman, however personally changed in character and manner of life, will continue registered as a prostitute, and be bound under legal penalties to surrender herself to be surgically handled in exactly the same way as the most abandoned one is. All this time, as has been said, the police needed to give the system a show of efficacy must be made vastly more numerous; and, consequently, a less and ever less morally trained class of the community must be resorted to in order to supply the inappeasable demand for recruits. An increasingly rigorous system, affecting, at the tenderest point, the liberty and honour of every woman in the country within and without the ranks of prostitution, would have to be worked by an army of practically irresponsible officials who must be raked up for the purpose, as they best may, from every class of the community, however rude and debased. The result of this is that it would become practically impossible for any woman once immeshed in the system to escape voluntarily from the position of a prostitute.

ATTENDANCE
AT THE EXA-
MINATIONS.

Besides their duty of filling and refilling the ranks of prostitutes, the police have, in all countries in which the system exists, a variety of other duties cast upon them more or less essential to its effectual operation. Pre-eminent among these is that of securing attendance at the periodical examinations. The difficulty to be encountered is a very obvious one, and foreign writers betray an almost pitiable sense of the infirmity of even their own favourite methods of overcoming it. The

very existence of the system, as even a plausible sanitary device, depends upon the possibility of inducing women to submit to the examinations; and yet the application of over rigorous penalties for non-attendance, like excessively severe customs laws, must defeat their own end and simply promote more refined and ingenious methods of clandestine prostitution. Of course, the problem is greatly simplified in those places in which licensed houses are made a prominent element in the organization of the system. This subject will be discussed by itself in the succeeding chapter. In the meantime, it is to be observed that the difficulty of securing punctual attendances is very considerable, as is manifest from the fact already alluded to that out of the average number of 3000 prostitutes on the register at Paris, about 600, or one-fifth, are annually struck off the register through having failed to attend for as long as three months. At one time, the women examined at Paris had to pay a small tax of 30 sous each to the examining surgeon; but since 1798 the system of gratuitous examinations has been adopted and is generally recommended everywhere. (See Dr. Jeannel's observations on the "*Taxe et Paiement des Visites*," p. 339.)

EXPERIENCE
AT PARIS.

Professor Crocq, of Brussels, in the scheme he presented to the Paris Congress of 1867, provided that women should pay a tax on the occasion of each "*visite*," the amount of which should be fixed by the town council. Those who attended punctually for a month should be free from further payments. Those who failed in punctuality of attendance should be liable to a double payment for each occasion of failure; and besides, to imprisonment for a period of from one to five days duration. This is in precise accordance with the existing Brussels' Regulations (see Appendix). By the Italian Regulations (see Appendix), "If the prostitute, not living in a licensed house during three consecutive months, shall have presented herself

PROFESSOR
CROCQ'S
SCHEME.

ITALIAN RE-
GULATIONS.

CHAP. III.

DR. JEANNEL'S
SCHEME.

"punctually for examination at the sanitary office on the appointed days, and shall have paid regularly the sum charged for the examination, the whole sum paid by her shall be restored to her in the third month." Dr. Jeannel takes some credit to himself for inventing,—and applying, as he reports, with considerable success at Bordeaux,—a mode of proceeding which combines the methods of bribing and threatening. The "*visites*" are gratuitous on Tuesdays and Wednesdays from nine o'clock to eleven o'clock every morning, and any woman who does not present herself when obliged to do so on one or other of these days, and at this time, is liable to imprisonment for twenty-four hours. But the imprisonment is not inflicted at once, and it can be redeemed (*rachetée*) on payment of 75 centimes by the women if they attend for examination on the Friday, or of 2 francs if they attend on the Saturday. The result is said to be that different classes of the women, according to their means and pretensions, regularly present themselves on the different days. (Jeannel, p. 412.)

M. LECOUR ON
THE GERMAN
PRACTICE.

M. Lecour says that during the siege of Paris, the Germans extemporised in the neighbourhood of St. Denis, a special organisation for regulating prostitution. "The sanitary examinations took place twice a week, on Wednesdays and Saturdays. A surgeon-major presided over the arrangements. He gave notice to the registered women that those who were unpunctual in their attendances or unaccommodating in their attitude, would be punished as they were in Berlin, and be beaten with a stick." (*"Celles d'entre elles qui seraient inexactes aux visites on inconvenantes dans leur attitude seraient punies comme à Berlin et recevraient coups de baton."*) "*La Prostitution à Paris et à Londres,*" p. 317.)

29 VICT. c. 35,
s. 28.

By the English Acts it is provided (29 Vict. c. 35, s. 28), that if any woman liable to "a periodical medical examination temporarily absents herself in

“ order to avoid submitting herself to such examination on any occasion on which she ought so to submit herself, or refuses or wilfully neglects to submit herself to such examination on any such occasion, she will be liable, on summary conviction, to imprisonment with or without hard labour, in the case of a first offence, for any term not exceeding one month; and in the case of a second, or any subsequent, offence, for any term not exceeding three months.”

It thus appears what are the usual efforts made of the nature of bribery, threats, and penalties, in the different countries to secure attendance at the periodical examinations. In England, indeed, the penalty of imprisonment cannot be inflicted without a formal judicial proceeding; but the only offence which, in the vast majority of cases, the delinquent woman is ever accused of committing is that of not complying with an engagement which—as above shown at length—she never really made. Even if the “voluntary submission” process were as really voluntary as an ordinary legal contract must necessarily be in order to have any validity—and it is, on the most favourable view, destitute of every element of voluntariness—it does not appear how a contract could be enforced by the penalty of imprisonment with hard labour without trenching on constitutional principles of the best established kind, and recently re-asserted by the Legislature in the most decisive way.*

This system of licensed vice finds its natural haunt in the border land of different branches of law; and while it can rely exclusively on no one of them alone, it succeeds in giving itself a fallacious appearance of being supported by all. The non-appearance at the time and place fixed for a periodical examination, or the refusal to submit to it, is neither a crime, nor a breach of contract, nor a civil injury, nor, in the case of any particular

* See *e. g.* 38 & 39 Vict. c. 86 and c. 90.

CHAP. III.

woman, the breach of an absolute command (such as those prescribed by the sanitary and vaccination laws, or the bye-laws of railway companies), issued by a competent authority in pursuance of an Act of Parliament. No doubt the Act succeeds in marking out, by a circuitous process, the women who are liable to be compelled to submit to violence, for not submitting to which they incur punishment. But it is the very indirectness and circuitousness of this process which, in a matter directly affecting liberty and good fame, is a fair ground for constitutional complaint. In a matter in which a woman's liberty and good fame is at stake it is not asking too much of the law in a constitutionally-governed country to demand that it should prescribe, with a clearness and directness which no person, however ignorant, dull, or listless, can mistake, what are the acts which a person can and must do or not do in order to be blameless before the law.

It is not consistent with the institutions of a so-called free country, nor in harmony with the delicate care for the liberty of the subject, which, in all matters technically labelled as criminal, such a country invariably prides itself on cherishing, to delegate to a series of subordinate police officials and private surgeons the unchecked function of bringing a considerable portion of the population absolutely within the reach of criminal penalties. And yet the system, as a medical device, could not be worked otherwise; which is one more proof that, when once its nature is understood by the public, it can never subsist in any country in which government by police has not, to a large extent, superseded government by law and by Courts of Justice.

DUTIES OF THE
POLICE.

Besides the duties of registering prostitutes, and securing attendance at the examinations, the police have a variety of other duties cast upon them, especially in reference to the special code of regulations

to which registered prostitutes are subjected, and to the control of licensed houses where such are recognised. The subject of "licensed houses" will be discussed by itself in the next chapter. The duties cast upon the police in reference to the general regulation of a prostitute's habits of life are some of them peculiar to the system of licensed prostitution and essential to it, and some of them only accidental to it, and such as may exist, and in many places do exist, in the absence of any such system. Thus the duties of the police in respect of preventing registered prostitutes, under pain of imprisonment, as at Paris (see Lecour, p. 130), from dressing their hair in a certain fashion instead of wearing a bonnet, from frequenting certain parts of the town, from appearing at public institutions or *tables d'hôte*, from soliciting during the daytime, or walking the streets earlier than half an hour after the lamps are lighted, or before seven or after eleven, though admitting of great variations in different places, are of a kind scarcely separable from the system of licensed prostitution. If women are licensed by law to practise prostitution, they might, it is true, be subjected to no other conditions whatever than those of submitting themselves to the sanitary measures provided. But it is natural enough that, when once a certain amount of discipline has been introduced by law into a prostitute's life for purely sanitary purposes, advantage should be taken of the occasion to secure a number of other ends—the more so as the securing some of these ends helps forward, as was shown above, the enforcement of regular sanitary visitations.

Two results follow from this enlarged and special jurisdiction over prostitutes thus conceded to the police. In the first place, the notion of prostitution in itself being bad and illegal (however inadvisable it may be to attempt to repress it by active penal measures) is wholly lost sight of both in the public

CHAP. III.
POLICE REGU-
LATION OF A
PROSTITUTE'S
LIFE.

CHAP. III.

mind and in the minds of prostitutes themselves. In the place of the absolute immorality of prostitution, comes the notion of its relative immorality only in certain places, at certain times, and under certain conditions. This cannot but tend to a wide-spread confusion of the public conscience in a matter of elementary morality of the deepest concern. In the second place, obviously beneficial regulations concerning public order and decency, and the protection of the young who cannot protect themselves, such as the policy of the most constitutionally-governed countries must recognise, become mixed up in the public mind with the regulations which are inherent in and peculiar to the system of licensed prostitution; and impart to that system an apparent merit and public usefulness which it may have no claim to. This is especially seen in the recent history of the legislation on this subject in England.

In the English "Contagious Diseases Acts" of 1866 and 1869, which cover the whole existing legislation on the subject, there is not a word about maintaining order in the streets or preventing public solicitation, or even diminishing juvenile prostitution. The police employed under these Acts are Metropolitan Police specially authorised for this purpose (29 Vict. c. 35, s. 2), and they have no powers given them in the district to which they are sent beyond what are strictly needed for making informations as to women being common prostitutes, for attesting the signature of the submission form, and for arresting women who do not comply with the requirement to attend and submit to the periodical examinations, or who refuse to enter voluntarily a certified hospital, or who leave it prematurely. The only other obligation laid upon these police is that of obtaining evidence, on a request from the visiting surgeon, that a woman has ceased to be a common prostitute. Whatever benefits

POWERS OF
THE POLICE
UNDER THE
ACTS OF 1866
AND 1869.



to public order and decency have been achieved of late years must have come through the local police, and by means of a more strenuous application of the ordinary law (for which purpose all the chief towns have special Acts of Parliament), or not at all. And yet nothing is more common than to hear the dwellers in subjected districts appealing on behalf of the system of licensed prostitution to the improvement in the streets. It may, indeed, be true that the prostitutes are improved in dress and demeanour, and that unregistered prostitutes are afraid to show themselves. The first of these results is of more than equivocal moral value, as has already been shown.* The second might be obtained with equal certainty if the ordinary police only availed themselves of the powers, given them either by common law or by the special statutes already alluded to, which might be indefinitely multiplied and improved.

It seems to be assumed in some quarters that it is impossible to protect the public against indecent exhibitions in the public streets, and strongly to discountenance prostitution itself, without subjecting prostitutes to periodical examinations for the sake of what is fallaciously called the *public health*. A forced choice is arbitrarily imposed between one of two alternatives, either that of rigorously suppressing prostitution by penal measures, or that of cherishing and periodically examining prostitutes for the use of the public market. The truth is, that law only aggravates the evil, both when it attempts directly to suppress it and when it licenses and regulates it. But law can do much when it co-operates both in its letter and its spirit with the dictates of a genuine morality, by consistently forbidding, in all its utterances, profligacy both in men and women; by refusing to open out real or apparent facilities for it; by throwing its mantle round the young; and by actively suppressing every cognisable

FORCED
ALTERNATIVES.

WHAT LAW
CAN DO.

* See p. 57.

CHAP. III. species of public solicitation, whether proceeding from men or from women. All this, and, perhaps, much more that might be done, needs no help whatever from a system of periodically examining women for the market; and, in fact, through losing the sympathy of the more sensitive-minded portion of the community, law is only hampered and weakened by its alliances with what is at the best a warmly controverted medical expedient.

The general conclusions which result from the above inquiry into the position occupied by the police in the system of the State regulation of prostitution are, (1) that the system as a sanitary measure can only be carried into effect by according to the police an almost unrestricted amount of discretion, to be exercised in a way practically irresponsible; and that (2) the result of such an extension of police agency must be not only detrimental but fatal to the general liberties of all women whatever who belong to the strata of society in which prostitutes are usually found.

CONTINENTAL
VIEW OF THE
POLICE.

It is not perhaps always understood by Englishmen that legal and constitutional ideas on the Continent of Europe, even in the freest countries, as Switzerland, are far more favourable to an unlimited extension of the powers of the police than the notions which prevail in England. In England the police, as a branch of the Executive, is looked upon as an object of stern constitutional jealousy and as demanding incessant vigilance and countless checks and guarantees, to prevent the most serious mischief. Every step in police action is strictly defined by law, and is re-defined again and again either by judicial interpretation or by explanatory statutes. In all matters in which a charge gravely affecting liberty or reputation is involved, the course the police must take is mapped out with punctilious precision, and is sharply limited

ENGLISH
VIEWS.

on the right hand and on the left. Every facility is provided, by a variety of guarantees hardly won and fondly cherished, for testing by Courts of Justice the legal regularity of every movement in the course pursued by the police for bringing home this responsibility to the erring officer, for undoing mischief accomplished, and for securing compensation for it. It is not that no discretion is left to the police, because in many matters very abundant discretion is left to them; but the limits of the discretion are strictly marked by law, and the question as to whether these limits have been observed and the discretion honestly if not wisely exercised, is invariably regarded as appropriate for the decision of a Court of Law, and every facility is provided for readily and publicly bringing the question to an issue. In fact the police, though appointed and directed by the Executive, are as much subject to law in every part of their official conduct as they are in their conduct as private citizens. It is firmly felt in this country that, but for this principle, no man's liberty or reputation would be safe for a day against careless, corrupt, or malicious, charges of the most disastrous kind.

JUDICIAL
SUPERVISION
OF THE
POLICE.

But it is not so in Continental countries. A broad line is drawn in those countries between what is matter of so-called "administration" and what is matter of "law." In countries constitutionally free, such as the Netherlands, Belgium, and the Cantons of Switzerland, or in those aspiring after full constitutional freedom, as Italy and France, the utmost jealousy is evinced of the Executive in respect of some of its more prominent functions, but none in respect of the indefinite powers confided to the police for the preservation of order and the discovery of crime. This is partly due to the long and fixed traditions in conformity with which the highly organised police of those countries discharges its functions. The police stand, as it were,

"ADMINISTRATION" AND
"LAW"
ABROAD.

CHAP. III.

apart from the rest of the State organism, serving one form of government as faithfully as another, and equally indifferent to the political merits of either. The apathy about the preponderance of police authority is also due to the fact that the strictly constitutional struggles abroad have been quite as often religious, dynastic, or aristocratical, as popular, and have rarely taken the form they invariably have in England, of a direct antagonism between popular or national claims on the one side and monarchical or oligarchical resistance to those claims on the other.

ITALIAN
PENAL CODE.

It is in accordance with these phenomena that the Italian Penal Code simply gives the police very large powers to frame such regulations as may seem fit for the regulation of public morals, and that under a general law of this sort the liberties and honour of all the poorer classes of women in the chief towns are handed over to the practically irresponsible power of the Executive authority. In France it has already been seen to be a matter of serious debate whether the copious body of regulations by which women are converted into registered prostitutes, and all sorts of penalties are inflicted upon them for all sorts of offences, are made in accordance with any subsisting written *law* or not. The only law bearing on the subject is a passage of the Code which, if relevant at all, re-enacts as law antiquated regulations, the sole purpose of which was the absolute repression of prostitution. In other countries it is the same. Either a vague passage of a Code gives an indefinite power to the police to make regulations, or they make them without any authority at all other than what it is presumed they inherently possess.

AN ACT OF
PARLIAMENT
NEEDED IN
ENGLAND.

But such a proceeding is impossible in England. It has been necessary to define by Act of Parliament all the powers which are given to the police, and the consequence is what might have been anticipated. The

system which has had an easy course in other countries, as finding there a congenial field for its operation in the indefinite and irresponsible powers already possessed by the police, has here come face to face with the English constitution, and from the moment that public attention was awakened to its nature, the extension of the system, which would be its only medical justification, became impossible. It was instantly exposed, discussed, and publicly sifted, in a way which no institution, on the face of it adverse to liberty and provocative of vice, can, in a country like England, stand. It is seen at a glance that the system depends, for such success as it aspires after, on the tacit concession to the police of indefinite and arbitrary powers not susceptible of assiduous check and control at the hands of Courts of Justice; and it demands, further, a vigorous and free-handed exercise of these powers. All those who understand the system best distinctly claim this, and they are at one in saying that if the evidence upon which women are converted into registered prostitutes and rendered liable to examination or imprisonment is to be of that strict sort which is needed by English Courts of Justice, the system is dead. This is in fact saying that the system of licensed prostitution, and public liberty in the shape in which it exists in England, cannot live together. Either the system must be abandoned, or public liberty must suffer a blow heavier than any which the most unpatriotic conspirator has inflicted, or rather vainly endeavoured to inflict, upon it.

CHAP. IV.

CHAPTER IV.

LICENSED HOUSES.

ONE of the most conspicuous forms in which the system of licensed prostitution, as it exists abroad, presents itself to view is in that of licensed houses, whether they be houses formally licensed by the police for the lodging and entertainment of prostitutes as such (*maisons de tolérance, maisons tolérées*) or houses of temporary accommodation informally recognised and protected by the police, though generally provided for by the written regulations (*maisons de passe*). According as a registered prostitute lives in her own lodgings or is permanently domiciled in a licensed house she is entered on the register as a *filles isolée* or a *filles de maison*, and is subjected to the special regulations which appertain to the one or the other class respectively. One difference, for instance, usually is that the woman who lives by herself is examined less frequently than the one who is attached to a licensed house, and the examinations take place, in the one case at a public dispensary, and in the other on the spot at the several licensed houses.

*Filles Isolées
and Filles de
Maison.*

Another leading difference—which explains the favour with which the institution of licensed houses is generally regarded by the foreign advocates of the Regulation system—is, that the mistress of the licensed house is held directly responsible to the police, under pain of losing her licence, for a due compliance on the part of the women under her control with all the regu-

lations, medical and general. Indeed the usual practice is for these regulations to be addressed directly to the mistress, and only indirectly, and through her, to the women who reside in her house. In the case of the women living alone, on the contrary, the regulations are usually addressed directly to them individually, and they are individually and immediately responsible for every infraction of them. Hence, from the purely administrative point of view, the advantage of compelling women to enter licensed houses, and thereby promoting a highly economical organisation, is obvious. From the medical point of view, however, opinion in favour of the policy of restricting the legal practice of prostitution to licensed houses is not quite so unanimous, and it will appear that some of the leading medical writers abroad denounce most loudly the inevitable slavery and brutality these houses foster and hide.

In Paris the examinations are once a week for women living in the houses, and once a fortnight for women living by themselves. The police regulations for the concession of a licence and for the internal management of a licensed house are much the same in all countries in which the institution is fully developed, the chief differences lying in the arrangements made for levying a tax and for preventing evasion of the periodical examinations. Thus, according to the Italian Regulations, which are an average specimen of the rest (see Appendix), the permission to open a licensed house "is conceded by the police authorities. It is "strictly personal, temporary, revocable, and is not "conceded to any person who has been convicted of "theft or any other offence against persons or property. . . . No house can be established in the frequented streets of the city nor in the vicinity of schools, "colleges, public buildings, or edifices dedicated to "public worship. The windows of the house must be

ITALIAN
REGULATIONS

CHAP. IV.

“ provided with frosted glass in winter, and with fixed
 “ and closed blinds in summer, to the height of two
 “ yards measured from the floor of the room. The
 “ keepers of the houses are bound to give immediate
 “ information at the Sanitary Office of every new ad-
 “ mission into the house. They are responsible for the
 “ maintenance of the inmates and for the cost of all
 “ articles worn by them at all times ; for the payments
 “ due for their sanitary examinations ; for the expenses
 “ incurred for non-venereal diseases treated in the
 “ house ; and, while the inmate is in hospital, for sup-
 “ plying her with clothes, linen, and the money needed
 “ for washing them.”

HAMBURG.

According to the Hamburg regulations (before the closing of the houses in 1876 (see Appendix)) each inmate was examined twice a week. A tariff for drinks was posted in all the rooms and shown to each visitor if requested. Dance-music, cards, and other games were forbidden under fixed penalties, and a monthly tax of so much for every inmate, according to her class, was imposed, the non-payment of which involved a loss of the licence.

BRUSSELS.

According to the Brussels Regulations (see Appendix), it is the “ Council of Burgomasters and Sheriffs ” who grant the licence. The houses must, as far as possible, be situated in lonely streets, and where the houses designated have no windows “ opposite to other houses. “ No married woman is allowed to take out a licence “ without the written consent of her husband. The “ houses are not allowed to have any sign-boards visible “ outside. It is also forbidden to sell any drink in “ them or to exercise any public trade, except by special “ authorisation of the council of the burgomasters and “ sheriffs.”

PARIS.

The Paris Regulations (see Appendix), are extremely precise. The keepers of the houses must lodge no more inmates than they have distinct rooms. They may keep no child above four years old upon the

premises. They may place no person at the door as a sign of their business before seven or after eleven p.m. They may not receive minors nor students in uniform. Those of the Banlieu must conduct their lodgers once in every week to the central sanitary office for examination; must demand the permits of the military at night, and make return of all cases of excessive expenditure on their premises, or of residence of strangers for more than twenty-four hours. They may not send abroad more than one woman each at one time.

According to Hong Kong regulations, introduced HONG KONG. by the British Government in 1857 (see Appendix), which, with some amendments in the direction of increased strictness, are still in force, no person is to keep a brothel unless it is registered; the Registrar-General is to keep a register of all brothels; the keeper, mistress, or manager is once a week to furnish the Registrar-General with a true report of the condition of health of each and every of the inmates of the same. A list of the names and ages of the inmates of the brothel, in the English and Chinese languages, is to be suspended in a public place in the house; the keeper of each registered brothel is to pay to the Registrar-General the sum of four dollars a month; and "every keeper of a registered brothel shall be allowed, upon giving notice thereof to the superintendent of police and obtaining his authority, to employ a constable for the protection of, and the preservation of order in, such brothel the constables are to wear an uniform to be chosen for the purpose, but to be solely employed about the protection of the brothel by the keeper of which each of them is employed."

It will be sufficiently understood from these verbal extracts from the regulations in different countries what is meant by the police control exercised over

CHAP. IV. houses specially licensed for entertaining and lodging prostitutes. It will hereafter have to be considered how far the existence of these houses is essential to the system of licensed prostitution, and how far it is only a common, though quite separable, accompaniment of it. In the meantime it is of the highest importance thoroughly to comprehend the real nature of these houses and to trace the obvious and necessary consequences of the police regulations in respect of them.

M. ALPHONSE
ESQUIROS.

M. Alphonse Esquiros (*“Les Vierges folles,”* p. 162) says of a *maison de tolérance*, “Si vous voulez savoir “ce qu’est cette maison si doucement nommée, je vous “dirai que c’est un endroit infect, qui a l’odeur du vice, “un repaire ténébreux, profond, irréparable. . . Une fois “la femme est entrée là, il lui faut dire adieu au ciel, “à la liberté, à l’honneur, et au monde !” Dr. Mireur himself, notwithstanding that his main specific consists in limiting the system of licensed prostitution to such as goes on in licensed houses, says of the inmate of such a house that she is “le type par excellence de la “*fille publique*.” “She is the modern slave who, “having sacrificed her personality, is become the tool “of the matron and the property of the public.”

The following extracts from Mr. Acton’s Work on will give a clear, and certainly not an untruthful, picture of the dull misery, the deep degradation, and the mental and bodily slavery, which these houses conceal from the public view. The evidence, be it remembered, comes from one who himself practised as a surgeon in Paris, who was taken by the most experienced practitioners in Paris into the very heart of the scenes to which licensed prostitution there gives rise, and who was an earnest advocate of the system of licensed prostitution as it has been adopted in England.

“The *dames de maison* are, of course, a vicious and, “as a general rule, ferocious mercenary band, tyrannis-

“ ing over the unfortunate helots who form their stock
 “ in trade, and abjectly crouching before the inspector,
 “ the surgeon, and the mouchard. The possession of
 “ a house of this kind is the highest aspiration of the
 “ prostitute. Such a woman sometimes succeeds in
 “ attaining to this pernicious eminence, but it is more
 “ frequently in the hands of families in whom houses
 “ and goodwill descend as heritable property. The
 “ recent editors of Duchâtelet’s work instance that as
 “ much as £2400 has been given for such an establish-
 “ ment, and £8 has been offered as fine to avoid sus-
 “ pension for three days of one of the lowest. . . . The
 “ gains of the mistresses of these houses in the better
 “ part of Paris are enormous. A medical friend told me
 “ that he once, while attending a woman of this class,
 “ said he supposed she gained a great deal? ‘ Yes ;
 “ ‘ my income is considerable,’ she replied, ‘ more than
 “ ‘ the pay of a French maréchal.’ ” Mr. Acton adds
 in a note that some of these women are said to gain as
 much as from £20 to £30 a day ; and if, as is often the
 case, the same individual owns two or three houses, she
 may retire on a fortune in about five years. “ In
 “ some of these houses scenes may be witnessed which
 “ can only be enacted by women utterly dead to every
 “ sense of shame, in whom every vestige of decency
 “ has been trampled out, leaving them merely animated
 “ machines for stimulating and gratifying the basest
 “ passions. . . . There is usually a debtor and creditor
 “ account between them and the mistress of the house,
 “ with whom it is always an object to keep her lodgers
 “ in her debt, this being the only hold she can have
 “ upon them. They are supposed, by a pleasing fiction,
 “ to pay nothing for their lodging, firing, and light, and
 “ there is certainly no actual charge made on this
 “ account ; but, as a makeweight, one half of what they
 “ earn is considered to be the mistress’s portion, while
 “ the other half is paid over to these avaricious duennas,
 “ and goes towards defraying the boarding and other

EXTRACT
 FROM MR.
 ACTON’S
 WORK.

CHAP. IV. "expenses . . . So long as a woman is much sought
 " after the mistress proves obsequious and kind, taking
 " her occasionally to the theatre, and permitting her
 " other indulgences ; but as soon as the public desert
 " the waning prostitute, a cause of quarrel is found, and
 " she is brutally turned out of doors, often with no
 " better covering than an old petticoat or worn-out
 " dress. Thus it is that the public prostitutes step at
 " once from luxurious salons to dirty hovels."

To this ghastly description may be appended another, proceeding from an equally competent authority of a different sort, M. Le Pasteur Borel, of Geneva, who has long given his life to rescuing women from the prison houses of vice, with a rare amount of success, and has personally fought many a valiant battle in plucking the sheep out of the jaws of the destroyer. In a short work on "*Maisons de tolérance devant le Droit et la Moralité Publique*" (Geneva 1875), he says (p. 13) :—

M. LE PAS-
 TEUR BOREL,
 OF GENEVA.

"The mistress will tell you with hardihood that she
 " is engaged in a trade as legal as any other, that one
 " has no more right to blame her business than that of
 " a confectioner, of a butcher, of a *restaurateur*, that
 " she is not only contravening no law but is under the
 " special protection of the police. At bottom her con-
 " science, that *gendarme incorruptible*, protests against
 " the indulgence which the law accords her. The
 " mistress will take good care to keep at a distance
 " from her a child of her own, if she has one, nor will
 " she allow her name to be mentioned in any pious gift
 " or work to which her heart, by way of expiation, in-
 " cites her ; for there is a conscience and kindliness of
 " heart yet surviving in those of the class whose every
 " impulse has not been stifled by their trade. Do not
 " try to represent to yourselves the fermenting corrup-
 " tion in a *maison de tolérance* ; the study is unwhole-
 " some and causes one who makes it to breathe a moral
 " poison. Modern civilisation cannot, in this respect,

“hurl a reproach at pagan antiquity; it may be that
 “from this point of view our age is more debased than
 “the corrupt times of the Greek republics and the
 “Roman Empire. To what a condition of moral putre-
 “faction from eight to twelve unhappy beings may
 “be brought when secluded from the world, without
 “employment, with no interest in anything, clustered
 “in the half-daylight of disgusting rooms, reduced to
 “have no other intercourse with each other than
 “quarrels or obscene conversations, and punished at
 “the appearance of revolt as slaves would be by the
 “mistress or her deputy. In this kingdom of death,
 “the soul, it may be, lets a single yearning sigh escape;
 “it is the memory of the village bell, the infant school,
 “the family hearth, the blue sky; but it recovers from
 “the crisis and falls again under the indissoluble bond
 “of that word of despair: it is our destiny! The chain
 “is riveted so long as there is money to be gained for
 “the mistress by the body which belongs to her; but
 “often enough a malady, more kind in its horrible
 “ravages, delivers the unhappy one by casting her into
 “the cell of a hospital.”

This is no doubt a rhetorical statement; but it is inflated with the simple promptings of recollected observations, and not with the vagaries of a wild imagination.

There is one aspect, however, of the institution of licensed houses to which neither Mr. Acton's nor M. Borel's descriptions do justice. It is that of the national and even international traffic and commerce in prostitutes which the institution cannot but promote, and notoriously does promote. The foreign writers on the subject give a disastrous picture of the incessant communication which subsists between the larger towns of a country such as France, and between the towns of adjoining countries, such as those of France,

INTER-
NATIONAL
TRAFFIC.

CHAP. IV. Italy, Belgium, and Switzerland, simply for the purpose of regulating the supply of prostitutes and adjusting it to the demand. It is indeed this active communication which has aroused the fears of the medical authorities and induced them, at successive medical congresses, to make a public appeal for international sanitary regulations. But this traffic, even within the limits of a single country, is, in itself, a most detestable outcome of the general system, and the more so as the organisation by which it is perpetrated is widely ramified and is delicately shrouded from public view. Dr. Jeannel (Chapter II.) gives a series of facsimile letters from mistresses of houses to one another, or from mistresses to prostitutes, and *vice versa*, opening out negotiations, describing the qualifications wanted or offered, the terms, the existing indebtedness, and other essential details. The general impression given is that of a sort of secondary morality which has entirely superseded primary morality. All sense of moral guilt, even of irregularity, seems to have vanished from the minds of the traffickers; and the trade in the bodies and souls of women is scarcely distinguishable in a single particular, except that of a sort of polite privacy which environs it, from the most legitimate and beneficial trade by which society is enriched and ameliorated.

DEPENDENT
INSTITUTIONS.

The most striking and alarming fact attending upon the institution of licensed houses is that it calls into existence a series of depending institutions, every one of which is a means of profitable occupation to a vast variety of persons. These subordinate and parasitic institutions gather round themselves the same kind of customary attachment which belongs to what is inoffensive and innocent. They enter into the thoughts, sentiments, the very conditions of existence of vast numbers of persons. Thus while the national conscience becomes ever more widely and deeply corrupted, the obstacles in the way of securing the influence of

public opinion to assist the sweeping away of the whole hideous structure seem to grow almost insuperable. CHAP. IV.

The following extracts from the work of Dr. Parent-Duchâtelet's chapter on "*Des Dames ou Maîtresses de Maison*" (Vol. II. p. 423), will serve to illustrate the sort of secondary morality which the system of licensed houses generates. They consist of actual letters from women of different conditions, addressed to the Prefect of Police, and requesting from him permission to keep a licensed house. PARENT-DU-
CHATELET ON
"DAMES DE
MAISON."

(1) "An old woman, aged eighty, addressed the Prefect in these terms :— LETTERS TO
THE PREFECT.

" ' Aged eighty years, mother of a numerous family,
" ' I implore, M. le Prefect, your help and protection.
" ' You, the father of the poor, the support of the
" ' widow and the orphan, the prop of the afflicted, the
" ' asylum of the wretched, you will surely not refuse
" ' my request. At such an advanced age, and feeling
" ' myself on the point of surrendering myself to God
" ' and appearing in the presence of my Creator, it is
" ' my duty to provide for the wants of my children,
" ' and to hand down to them the means of livelihood.' "

She then went on to request the Prefect to grant her daughter and grand-daughter licenses to keep *Maisons de Tolérance*.

(2) " Others write :—

" ' M. le Prefet.

" ' I have only you as a resource to lean upon ;
" ' burdened with a family of tender years, I implore
" ' you not to refuse me an honest means of livelihood
" ' and of bringing up my children. Deprive me not,
" ' M. le Prefet, of a consolation of which an afflicted
" ' mother stands in so great need.' "

(3) " ' M. le Prefet.

" ' Madlle. D—— has the honour to explain to
" ' you the cruel reverses of fortune that would have
" ' driven her to the final act of despair, if she had not

CHAP. IV. “ ‘ been restrained by a sentiment of religion from
 “ ‘ parting with that which comes from above. Her
 “ ‘ grave and circumspect conduct, the care she has
 “ ‘ taken of her father and mother and that she lavishes
 “ ‘ on her children have won for her the esteem and
 “ ‘ consideration of all the better class of people ; being
 “ ‘ unable to bring herself to work, she desires to be au-
 “ ‘ thorised to receive at her house six women, &c., &c.’ ”

DEFENCE OF
 THE INSTITU-
 TION.

It is scarcely necessary to say that the foreign writers on this subject are by no means insensible to the gross scandal and flagrant immorality and hypocrisy which facts like the above disclose. They only defend the institution on the ground that, on the whole, the institution of licensed houses assists the police in bringing prostitutes under medical control, and that there is no third course between the course adopted and that of giving up altogether the battle with the physical evils which follow in the wake of prostitution. Indeed the decrease of licensed houses is regarded as rather a serious symptom, as it generally argues the increase of that foe of the doctors and the police, clandestine prostitution. Thus while M. Lecour bemoans the increasing number of arrests which have to be made every year and the incapacity of all available machinery to grapple with an evil which is incessantly gaining fresh force, his statistics show that, for the fifteen years between 1855 and 1869, there has been a continuous diminution in the number of licensed houses in Paris, the number in the first of those years being 204 and in the last of them 152. (“ *La Prostitution à Paris et à Londres*,” p. 134.)

DIMINUTION
 OF HOUSES IN
 PARIS.

The existence of these licensed houses with all the horrors they imply and all the demoralisation they spread through society in ever widening waves has been, and is, a grievous stumbling-block in the path of the supporters of the system of licensed prostitution. They

have been driven to two measures, signs either of a pitiable feebleness of purpose or of the last energy of despair. One of these measures is to parade a laboured apology for the institution on the face of the regulations which create it. The other is to endeavour to dispense with the institution altogether and to try to work the system of licensed prostitution in the absence of it. The apologetic method is illustrated by the late Hamburg Regulations, which ran as follows:—

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RECENT
HAMBURG
REGULATIONS.

“All keepers of licensed houses, male and female, and registered girls, should bear in mind that their profession is only *tolerated* but not allowed or even authorised or approved of. Still less have they reason to believe that their profession is to be put on a par with other authorised professions because a tax is levied upon them, or to brave on that account other honest citizens.”

It is well known that no country has vacillated more in her policy on the whole subject than Prussia. In the regulation of the Royal Presidency of Police, December 18th, 1850, a long preamble attempted to justify the enacting clauses of the regulation. In the course of this preamble it was said: “No doubt the moral sentiment revolts at the idea that the public authority should tolerate and protect houses set apart for purposes of vice, but experience has proved that this mode is, for Berlin, the least objectionable.” Mr. Acton (p. 140), speaking of these regulations, notices that they have become to a great extent obsolete, as the opinion both of the Government and of the public generally has, since their promulgation, declared strongly against the brothel system, and such places were finally abolished in 1855. From the following terms of a petition recently addressed to the Reichstag of the German Empire by the Central Committee of the Inner Mission of the Evangelical Church in Germany—a vast organisation which not inade-

CHAP. IV.

quately represents the internal life and external activity of the whole of German Protestantism—it appears that the re-institution of licensed houses by a law of the Empire is now seriously threatened.

“Berlin and Hamburg, Dec. 9th, 1875.

PETITION OF
THE GERMAN
“INNER
MISSION.”

“Upon the occasion of the revision of the Penal Code of the German Empire, on the 15th of May, 1871, certain additions were proposed, emanating from the Reichstag itself—sections 180 and 361; additions which would have for their effect to accord a legal existence in Germany to houses of infamy, and thereby to introduce them within certain portions of the limits of the Empire in which they do not at present exist. It is not to be doubted but that the motive which has dictated this proposition is the supposed interest of the public health, but we are none the less convinced that its adoption would be injurious to the public welfare, and that the moral foundations of our social life, already menaced, would thereby be still more profoundly shaken. . . . In virtue of the considerations herein enunciated, and referring, moreover, to the petition which we addressed on the 30th of March, 1869, to the Parliament of the Northern Confederation, with the accompanying memorial, by which it was strengthened; relying upon the unanimous vote by which that high assembly, in its session of the 6th of May, 1869, referred our petition to the Chancellor of the Empire, to be added to the documents intended to serve for the compilation of the Penal Code of the Northern Confederation; and in the conviction that there should and could be found a remedy for the evil of which we are speaking other than the legalisation of the trade of the procurer, we address to the Reichstag the following prayer:—That the Reichstag be pleased to reject every proposition tending to alter the provisions already enacted by the law against the

“ trade of the procurer, or to authorise in any manner
 “ whatever the exercise of that trade by placing it
 “ under official protection.”

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Prussia and the German Empire are thus invited to abstain from recognising the institution of licensed houses, and yet not a word is said about the general system of licensed prostitution which in fact exists, at Berlin and Hamburg, in a highly organised form. How far a professed non-recognition of licensed houses implies a real and bonâ fide non-recognition of them will be discussed later on when the English method comes under review.

In the meantime it is worth while to cite the aspirations of an eminent Italian authority, Dr. Castiglioni, who is a warm advocate of the system of licensed prostitution in all its essential features, and yet holds that the necessary abuses that attend the institution of licensed houses are too great to be encountered on behalf of any end whatever. Dr. Castiglioni was the Government Inspector charged with the application of the regulations in respect of prostitution immediately after the Italian occupation of Rome in 1870. He was also Chairman of the 5th Congress of the Executive Commission of the Italian Medical Association, and in that capacity issued a lengthy report “ *On the Surveillance of Prostitution*,” which was published in Rome in 1872, and from which the following is a translated extract :—

DR. CASTIG-
LIONI.

“ The favourable sanitary result obtained by concentrating prostitution in brothels refers alone to that portion so concentrated ; this advantage is neutralised by the increase of clandestine prostitution which undoubtedly takes place by persecuting prostitutes that will not stay in brothels, firstly, because they like their personal freedom, and, moreover, because in these places an infamous traffic is carried on by the owners, who completely crush their unfortunate victims and take from them every chance of bettering

CHAP. IV. " their position or redeeming themselves in so far as it
 " is possible for such women to do so. It is all very
 INDEBTEDNESS " well for the regulations to say that no debts shall be
 OF WOMEN IN " an obstacle to a woman leaving a brothel, but the
 BROTHELS. " fact is, everything she wears, possesses, and therefore
 " takes a pride in, belongs to the brothel keeper; she
 " cannot, without paying all, take a single thing away,
 " except the modest and, perhaps, dirty clothes she
 " entered in, and which are reserved for her by the
 " regulations. Very few prostitutes leave a brothel to
 " marry or lead a proper life; most go from one brothel
 " to another loaded with debts that they can never get
 " rid of, whatever may be established to the contrary
 " by the regulations, because there is an abominable
 " league of all brothel keepers by force of which they
 " never admit an indebted woman unless she brings the
 " load of everlasting debt with which she runs her
 " fatal course. . . . I need not analyse or confute all
 " the articles on the organisation of brothels that I have
 " here reproduced; suffice it to say that they really
 " justify the degrading reproof made to the Govern-
 " ment of being the chief of the brothel keepers. This
 " is, moreover, aggravated by the tax levied; as this
 " varies in proportion to the profit and importance of
 " the brothel, it is really an income tax, and thus
 " brothel-keeping is placed on the same footing with an
 " industry, art, or profession. The laudable object of
 " the framers of the legislation was to provide more
 " effectually for the preservation of public health, but
 " at such a price I cannot approve it."

It is necessary to introduce one more lengthy quotation which substantiates the view of Dr. Castiglioni and is important from the responsible character of the authority which speaks. The following is the language in which the Municipal Government of Zurich in June, 1874, abolished the Regulation system as there existing:

ABOLITION OF
 TOLERATION IN
 ZURICH, 1874.

" Toleration gives rise to a fatal confusion of ideas;

“ men become accustomed to regard all that passes in
 “ houses thus protected as a permitted thing, and the
 “ young thus lose all the ideas of good conduct which
 “ have been inculcated upon them. A moral confusion
 “ no less fatal is produced among the employés and
 “ agents employed in the ‘*morals-police* ;’ the fact of
 “ being in constant relations with the tenants of bad
 “ houses necessarily leads to a species of intimacy.
 “ Moreover, it is not possible that they should display
 “ much energy against unlicensed prostitution while
 “ they are occupied in favouring licensed prostitution.
 “ Thus the police are placed in a false position ; they
 “ can only truly maintain a repressive attitude towards
 “ prostitution by showing themselves frankly hostile
 “ to it in all its forms. To admit any sort of compro-
 “ mise with a trade fundamentally evil, to tolerate one
 “ description of houses of debauchery and make war
 “ upon others, is to enter upon the path of half-meas-
 “ sures, compromise, and equivocal partiality, fruitless
 “ of every good result. Zurich owes it to herself to
 “ watch over the interests of the young confided to her
 “ care. To facilitate the approaches and multiply the
 “ opportunities of vice is to offer temptation to the
 “ numerous students of the Polytechnic school and
 “ University, to our own citizens, and to the youth of
 “ the Canton gathered together in Zurich, whether in
 “ our barracks, or in our Military, Federal, or Cantonal
 “ Schools. The snare is all the more dangerous because
 “ presented under a false semblance of sanitary immu-
 “ nity. The opinion that tolerated houses are a pre-
 “ servative against contagious diseases is refuted by
 “ modern statistics, and supported at present only by
 “ a minority of opinion among the faculty and by the
 “ tenacity of inveterate prejudice. Whatever advan-
 “ tage may be drawn from tolerated houses in respect
 “ of prophylactic measures against contagion can never
 “ counterbalance their injurious effect, both immediate
 “ and indirect, for it is a recognised fact that the

FALSE POSI-
TION OF THE
POLICE.

INTERESTS OF
THE YOUNG.

CHAP. IV. "existence of these establishments tends to foster and
"develop sensuality and to multiply the means of
"gratifying it, while the abolition of such places facilitates, in an equal degree, every effort towards the
"abolition of prostitution. This is shown by the result
"of experience in the city of Frankfort-on-the-Main,
"and by the moral and sanitary condition of that town
"as compared with Hamburg. Moreover, if prostitution, like other vices, is indestructible; if the action
"of the police cannot be brought to bear except in
"cases of public scandal, well-founded complaint,
"solicitation, procuring, and the like; how much
"reason is there to take action against institutions
"which, while offering further indulgence to the
"habitual profligate, are at the same time hotbeds of
"prostitution and nurseries of every description of
"crime and abuses punished by the laws protective of
"public morality. In a word, the system of official
"tolerance of prostitution is irreconcilable with the
"idea of the State as a moral power, and with every
"sound principle of social economy, and is regarded
"with just reprobation by the conscience of the great
"majority of the people."

The institution of licensed houses has thus been fully explained by reference both to the police regulations by which it is built up and to the evidence of those best cognisant of its internal workings, who cannot be suspected of looking at any of the ordinary accompaniments of licensed prostitution with an unfriendly eye. It has been seen that by the general confession even of those who support the institution, on the ground of its necessity as the least of two evils between which a choice must peremptorily be made, it is odious in itself and capable of giving birth to evils among the greatest to which humanity can be subjected. The only attempted defence of it is that it

enables the police to exercise a certain limited amount of internal supervision over a class of houses which experience proves it to be hard to abolish; while it secures the co-operation of the mistress of the licensed house in enforcing upon the inmates a regular attendance at the periodical examinations and compliance with the other rules and regulations laid down by the police. Dr. Mireur, of Marseilles, indeed estimates so highly the advantages of licensed houses in this last respect that he would confine the whole operation of the system of licensed prostitution to those houses, the mistresses of which he would make directly responsible for the existence of disease among the inmates. Of course the result must be simply to rivet the chains of slavery which are already heavy enough round the necks of those unhappy creatures; and, by creating a monopoly, to give the most potent impulse to the institution. Outside the licensed houses Dr. Mireur would offer no sanitary protection and would leave prostitution to be punished as an offence by the ordinary Courts. In fact in describing his method he becomes eloquently virtuous so far as the world outside the licensed houses goes. "Public prostitution will become an offence provided for and punished by the Penal Code. Those who commit it will know beforehand what they are exposing themselves to; they will no longer fall under the jurisdiction of a special and imperfect police but of the ordinary Courts. They will understand that it will no longer be enough to submit to some administrative requirements in order to acquire the right of surrendering themselves to a profligate mode of life with impunity; they will understand that prostitution—*outside licensed houses*—is no longer, as now, a recognised industry, and that in giving themselves up to it they render themselves liable to be punished with the utmost rigour of the law" (p. 389).

DR. MIREUR'S
SCHEME.

CHAP. IV.

ALLEGED INTERNAL POLICE
SUPERVISION.

With respect to the internal supervision of the houses alleged to be exercised or exercisable by the police, this is, on the admission of all the writers, a merely hopeful phantasy, and not a fact, or, so far as it is a fact, it is one very unprofitable to the main sufferers from the institution. It may be that, by facilitating the entry by the police, the possibility of the grosser forms of outrages or even of the more palpable frauds is excluded. But this result might surely be quite as effectually obtained by enabling the police, under a special warrant, to enter any house whatever in which they had reason to suspect the commission of such offences, and to take exactly the same ulterior steps as, or even more decisive ones than, are now available in the case of licensed houses. The institution of licensed houses presents no bar whatever to the silent and unobtrusive enslavement and imprisonment of the inmates, the innumerable minor frauds committed upon them, the overbearing influence which is secured over their minds, and the pitiless harshness with which, without an hour's notice, luxury and indulgence is, owing to some accident of fortune, ever liable to be exchanged for abandonment and contempt. It is all these less tangible evils that the laws and regulations in support of the institution of licensed houses propagate and magnify, and surely the repression of the coarser outrages,—which certainly, as has been shown, might be achieved otherwise,—ought not to be purchased at the price of directly promoting innumerable and unmeasured wrongs.

The ineradicable evil attaching to licensed houses has been the side of the system of licensed prostitution which has been the first to stir the public conscience and has given rise to various devices for eluding its necessity. In some places (as lately in Hamburg) the regulations contain on the face of them a laboured apology for the insti-

tution, and proceed on the theory that a few courteous compliments to the claims of morality inserted in the preamble of a law will obviate all the demoralisation which must, of necessity, be looked for as the effect of putting in force its enacting clauses. The Berlin Regulations were equally apologetic, and after more than twenty years of uncertain and vacillating policy, the open recognition of licensed houses is now at an end throughout the German Empire. The Imperial Parliament had however only recently been hesitating whether or not to include the recognition of licensed houses within the purview of the new Penal Code. The municipal Government of Zurich has, within the last two years, abolished the whole system of licensed prostitution, as previously existing there, in language which sufficiently shows that the institution of licensed houses was regarded as at once an essential characteristic of the system and, on that account, its final condemnation.

It may thus be fairly concluded that it is the publicly announced opinion of some fairly representative States of Europe that the institution of licensed houses involves such abominations that, if it be proved that the system of licensed prostitution involves the presence of that institution as a *sine quâ non*, that system must fall with it. At the same time other important States in practice incorporate the institution of licensed houses in their regulations for licensing prostitution, and, in fact, treat it as an essential part of those regulations; while every leading writer on the subject, while deeply—and by no means hypocritically—deploring the atrocities which the institution involves, bestows a vast amount of thought on the improvement of its organisation, and evidently considers the main hope of the licensing system generally to lie in the medical and police control which the institution of licensed houses involves.

GENERAL CON-
DEMNATION OF
LICENSED
HOUSES.

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It thus becomes important to inquire whether it is true that the system of licensed prostitution involves, as of necessity, the institution of licensed houses, it being observed that this institution may be indirectly protected and favoured by the law even where no express law or regulation applies to it otherwise than for purposes of repression. There may be a conflict between the letter of one class of laws which forbids, and the spirit of another class which countenances; the result of which would be that Courts of Justice are paralysed, the police vacillate, the public conscience is perplexed. In such a condition of things, the general effect of the law is to permit, and (inasmuch as whatever the law permits it is bound, on some occasions, to protect) to encourage.

This is just the condition of things in England with respect to the attitude of the English "Contagious Diseases Acts" towards brothels, the legal name of which is "bawdy-houses," falling under the generic head of "disorderly houses."

ENGLISH COM-
MON LAW ON
BROTHELS.

BURN'S
JUSTICE.

The rule of the English common law, as laid down in Burn's "Justice of the Peace" (Maule's edition), under the head "Disorderly house," is, that "although "lewdness be properly punishable by the ecclesiastical law, yet the offence of keeping a bawdy-house cometh "also under the cognizance of the law temporal, as "a common nuisance, not only in respect of its endangering the public peace, by drawing together "dissolute and debauched persons, but also in respect "of its *apparent tendency to corrupt the manners of both sexes.*" It is said lower down, "keeping a "bawdy-house is a common nuisance and may be "indicted as such; so a person may be indicted for "frequenting it. . . . A wife may be indicted together "with her husband, and punished with him, for keeping a bawdy-house; for this is an offence as to the "government of the house in which the wife has

“ a principal share ; and also such an offence as may
 “ generally be presumed to be managed by the intrigues
 “ of her sex. A lodger is also indictable for this offence,
 “ as well as the proprietor of a house, if she convert her
 “ lodging to the same offensive purpose.”

Recent statutes have been enacted in order to pro-
 vide a readier and more summary way of suppressing
 such houses than the cumbrous process of indictment.
 Thus, by the 25 George II. c. 36 (made perpetual by
 the 28 Geo. II. c. 18), it is enacted (s. 5), “ in order
 “ to encourage prosecutions against persons keeping
 “ bawdy-houses, gaming-houses, or other disorderly
 “ houses,” that any two inhabitants of “ any parish or
 “ place ‘ paying scot and bearing lot therein,’ may
 “ give notice in writing to a constable of any person
 “ keeping a bawdy-house, gaming-house, or any other
 “ disorderly house, and upon such persons swearing
 “ before a justice to their belief in the truth of the
 “ notice, and entering into recognizances of twenty
 “ pounds each to produce evidence, the constable shall
 “ enter into a recognizance to prosecute at the next
 “ quarter sessions or assizes, and, upon conviction, each
 “ of the persons who promoted the prosecution shall
 “ have ten pounds paid to him by the overseer of the
 “ parish.” By the 58 Geo. III. c. 70, s. 7, the overseers
 may, if they choose, take the place of the constable as
 prosecutor. By the 3 Geo. IV. c. 114, the party con-
 victed of keeping a common bawdy or other disorderly
 house may, as the Court shall think fit, be sentenced to
 imprisonment with hard labour for any term not ex-
 ceeding the term for which the Court might then
 imprison for such offences either in addition to or in
 lieu of any “ other punishment.”

Still more recent legislation, embodied in what is
 called the “ Towns Police Clauses Act ” (10 & 11 Vict.
 c. 89), has still further simplified the procedure in cer-
 tain cases. The 35th section of this statute enacts,

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REPRESSION BY
STATUTE.

25 GEO. II.
c. 36.

28 GEO. II.
c. 18.

58 GEO. III.
c. 70, s. 7.

3 GEO. III.
c. 114.

10 & 11 VICT.
c. 89, s. 35.

CHAP. IV. "that every person keeping any house, shop, room, or
 "other place of public resort within the limits of the
 "special Act for the sale or consumption of refresh-
 "ments of any kind who knowingly suffers *common*
 "prostitutes or reputed thieves to assemble and con-
 "tinue in his premises, shall for every such offence be
 "liable to a penalty not exceeding five pounds."

There are also various local Acts of Parliament, limited in their application to the larger towns of the country, which give increased powers to the police for carrying into effect the common law prohibition of brothels. A bye-law made under such an Act, for instance, exists at Plymouth, one of the towns, by the way, to which the Contagious Diseases Acts apply. An account of this Act is contained in the following evidence of Mr. W. Phillips, solicitor and clerk (since 1868) to the Plymouth Justices, before the Royal Commission of 1871.

BYE-LAW AT
 PLYMOUTH.
 MR. W.
 PHILLIPS.

(Q. 6414) "Is there a bye-law in force in Plymouth
 "making it an offence punishable with a £5 fine for
 "the occupier of a house to employ or encourage pros-
 "titutes in his house?" "There is, and of late years
 "it has been put in operation more extensively than it
 "was formerly." (Q. 6415) "Since when?" "Almost
 "since I have been clerk. There were a few cases
 "before that, but I do not recollect many before that."
 (Q. 6416) "The bye-law was neglected before that?"
 "The bye-law was neglected before that. It's an old
 "bye-law passed about thirty years ago." (Q. 6417)
 "That bye-law is equivalent to a summary process
 "against brothel keepers?" "Very nearly. They get
 "out of it sometimes. Some technical point arises
 "which would not in the case of the law against
 "brothel keepers; but it works very well and keeps
 "the houses quiet."

It thus appears that the rules of the English common law, as they have existed from the days of Coke (to

whose authority Burn appeals) in Queen Elizabeth's time, are to the effect that the keeping a brothel is an indictable offence, and even the persons frequenting it are liable to prosecution. Sundry Acts of Parliament, general and local, have also been passed in order to secure and facilitate the prosecution of these houses. The attitude both of the Common and of the Statute Law towards these houses and towards those who own, keep, and frequent, them is that of uncompromising and implacable hostility.

It may be that experience teaches that there are serious practical difficulties and even theoretical obstacles in the way of organising an active crusade against such houses in the mass and of giving the police the powers necessary for the purpose. It may be that the actual powers of suppression given by the Law are insufficient even for such an amount of suppression as is clearly contemplated; and there is no doubt that the subject does present considerable legislative difficulties, the gradations between an ordinary lodging-house to which prostitutes, among others, generally resort, and a lodging-house chiefly maintained for the purpose of facilitating prostitution, being so fine as to be almost imperceptible, and consequently much vigilance being needed to prevent illegal aggressions by the police. But, so far as the law does speak and act, it does so without any ambiguity or vacillation. It condemns and it punishes. It knows no indulgence, licence, or compromise. All involved in the offence of keeping or frequenting a brothel are guilty before the Law, and are liable to be punished in the measure, at the time, and by the processes, which the Law, as it may seem expedient, points out.

ENGLISH LAW
ON THE SUP-
PRESSION OF
BROTHELS.

It now remains to be seen whether the Contagious Diseases Acts introduce, either expressly or impliedly, any legal principle at variance with the standing rules,

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as above expounded, of the Common and Statute Law. The enquiry is essential to the discussion because, on the one hand, it is sometimes laid to the credit of these Acts that they have led to the diminution of brothels; and, on the other hand, if it be true that the Contagious Diseases Acts not only fail to discourage brothels, but in practice remove from them the ban placed upon them by the general law, then is it true that English experience confirms an overwhelming amount of experience gathered elsewhere, that the system of licensed prostitution cannot subsist apart from the institution of licensed houses, and that, if effectual war is to be waged against the latter, the former must be swept away likewise.

The only passage in either of the Acts, of 1866 or of 1869, in which the subject is alluded to, is the following clause of the former of these Acts (29 Vict. cap. 35, s. 36):—

29 VICT. C. 35,
S. 36, ON EN-
TERTAINING
DISEASED
WOMEN.

“If any person, being the owner or occupier of any house, room, or place within the limits of any place to which this Act applies, or being a manager or assistant in the management thereof, having reasonable cause to believe any woman to be a common prostitute and to be affected with a Contagious Disease, induces or suffers her to resort to or be in that house, room, or place for the purpose of prostitution he shall be guilty of an offence against this Act, and on summary conviction thereof before two justices shall be liable to pay a fine not exceeding twenty pounds, or, at the discretion of the justices, to be imprisoned for any term not exceeding six months with or without hard labour: provided that a conviction under this enactment shall not exempt the offender from any penal or other consequences to which he may be liable for keeping or being concerned in keeping a bawdy-house or disorderly house, or for the nuisance hereby occasioned.”

This, as was before said, is the only clause in the Acts which touches the subject of houses resorted to for the purpose of prostitution; and the effect of this clause is obviously, in spite of the formal deference paid to the general law by the proviso, to substitute the offence of entertaining a woman for the purpose of prostitution while having reasonable cause to believe her "to be affected with a Contagious Disease," for the older offence of entertaining her for such purposes at all. This clause must, and will, be interpreted in connection with all the other clauses of the Act, and with the general object of bringing as many prostitutes as possible under medical control which characterises all its provisions from first to last. Whether or not the "owner, occupier, manager, or assistant in the management" is patronised and favoured, or informed against, under the provisions of the ordinary law, is sure to depend on the zeal with which he co-operates with the police in promoting the general objects of the Act.

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EFFECT OF THE ABOVE CLAUSE.

The police who work the Act are special Metropolitan police, and, as such, are wholly unconcerned with the moral interests of any particular district to which they may be sent, or with the views and sentiments of its respectable inhabitants. Their first or only objects in view must be those of converting as many women as possible, who are hovering between respectability and prostitution, into registered prostitutes, and securing that as few registered prostitutes as possible evade the periodical examinations. The police must be led, by an instinctive sense of what their special office demands, to ignore or shield from prosecution the keepers of brothels who co-operate with them in these respects—as foreign experience demonstrates they, above all other persons, can, if they please.

FUNCTIONS OF METROPOLITAN POLICE.

Even apart from these Acts, it is often held to

CHAP. IV. be expedient only to suppress those brothels which give rise to special scandal, though much more comprehensive efforts in this direction are made in some towns than in others. The effect of the Acts is to take as the test of criminality not the public scandal, the tyrannical usages, the public demoralisation, proved to be connected with a given house, but the simple question whether the "owner, occupier, manager, or assistant in the management," does or does not co-operate with the police in promoting the periodical examination of prostitutes. It need not be pointed out that all diminution of brothels attributed to these Acts must be a mere illusion, and is only one more of the hourly fallacies falling under the head "plurality of causation." There is no clause in either of the Acts which directly or indirectly touches the subject except the one above cited, and this one, as has been shown, by inviting the co-operation of the brothel keepers in achieving the sanitary purposes of the Acts tends, so far as it operates, to check the salutary control and qualify the absolute condemnation proceeding from every other part of the law.

CO-OPERATION
WITH BROTHEL
KEEPERS.

If it were as true as there is excellent evidence to believe it the reverse, that the number of brothels had decreased in a greater ratio in the subjected districts than elsewhere, this result could only have proceeded either from a more vigorous application of the ordinary law in those districts since the Acts have been in force, as Mr. Phillips, in the evidence already cited, states to have been the case at Plymouth since the year 1868, or because fear of the periodical examination has tended to foster clandestine prostitution at the expense of brothels. So far as this last mode of operation is the true solution, it might be a matter of congratulation to those who prefer any form of the evil to that which it assumes in the licensed houses. But this is not a result the advocates of

the Acts can use as an argument in their favour, as it means that the Acts only fail to encourage brothels by becoming impotent and nugatory for their own ends. That it is quite possible largely to reduce brothels by an application of the Common or Statute law wholly irrespective of a system of licensed prostitution,—were not the opposite proposition almost too absurd to maintain,—is manifest enough from such facts as those contained in the “*Report on Crime of the Liverpool Head Constable furnished to the Town Council on the 29th of September, 1873,*” from which it appears that the number of brothels in Liverpool was reduced from 777 in 1864 to 516 in 1873, notwithstanding the large increase in population during these nine years. Yet Liverpool is not under the Acts, though it resembles Devonport and Portsmouth in being the first place of arrival of sailors from long voyages. In the Metropolitan Police District covering the whole of London, which is not under the Acts, the number of brothels had been reduced from 2825 in 1857 to 2119 in 1868; and a peculiarly bad class of them had been almost annihilated, being reduced from 400 in 1857 to only 2 in 1868.

CHAP. IV.

SUPPRESSION
OF BROTHELS
IN LIVERPOOL.

IN LONDON.

That it is not merely an *à priori* conclusion that the Acts must withdraw from the keepers of brothels the stigma of illegality and of liability to condign punishment with which the Common and general Statute law otherwise unequivocally brands them, and must further inevitably lead to an iniquitous concert between them and the special police, may be gathered from such evidence as the following brought before the Royal Commission of 1871. Thus Inspector Smith, employed in the execution of the Acts, on being asked (Q. 14,211), “Do the brothel keepers in Aldershot attempt to disguise the character of their houses?” answers, “Not the slightest.” (Q. 14,212) “They are known to the

EVIDENCE AS
TO CONCERT OF
POLICE WITH
BROTHEL
KEEPERS.

INSPECTOR
SMITH.

CHAP. IV. "police?" "Yes." (Q. 14,213) "And you enter them?"

"Yes." (Q. 14,214) "Do they hesitate to show you
 "the women or to give you an account of the number
 "of the women in the houses?" "No, not at all." (Q.
 14,215) "Then, in fact, you derive your information
 "from the brothel house keepers as to the number of
 "the women lodging with them?" "I do, in a mea-
 "sure." (Q. 14,226) "Do the brothel house keepers in
 "Aldershot try to assist you in discharging your duty,
 "or do they oppose you?" "I never found any oppo-
 "sition from them. If I go and ask them a question
 "I generally find I have been told the truth." (Q.
 14,222) "Are the brothel keepers in favour of
 "the Acts?" "I believe so, in fact I have heard
 "them express themselves to that effect." (Q. 14,223)
 "Then so long as they conduct their business without
 "disorder you do not meddle with them?" "No, I
 "do not meddle with them in any way if they do not
 "give me any reason for doing so." (Q. 14,277)
 "What is it that makes them regard the Acts with
 "favour?" "I suppose it is from a personal motive.
 "I do not know of any other. If a woman was ill or
 "diseased, or anything of that sort previous to the
 "Acts coming into operation, she would be some con-
 "siderable trouble or expense." (Q. 14,278) "She
 "would be an incumbrance and trouble to the brothel
 "keeper?" "Yes." (Q. 14,279) "Now she is sent to
 "the hospital instead?" "Yes, that is my view of it."
 (Q. 14,456) "In what way is it (the Act) for their
 "benefit?" "If they had women in their houses who
 "were diseased they would become considerably more
 "trouble and expense to them, they would have to get
 "them to the workhouse, and perhaps a woman would
 "be occupying a room which the brothel keeper might
 "probably otherwise let to other tenants, whereas if a
 "woman is laid up in the room, the brothel keeper
 "would be deprived of the rent."

BROTHEL
 KEEPERS IN
 FAVOUR OF
 THE ACTS.

CHAP. IV.

POLICE
CONSTABLE
PHILLIPS.
INFORMATION
GIVEN BY
BROTHEL
KEEPERS.

J. A. Phillips, again, of the Metropolitan Police, gives similar evidence. On being asked (Q. 19,736), "Did you take any measures to make the brothel keepers help you in getting up the women for examination?" he replies, "No further than going to them for information as regards who they had at their houses." (Q. 19,737) "Did they give you that information freely?" "Generally." (Q. 19,738) "Then did the brothel keepers object to this system of examination?" "In some respects; that is, when they were deprived of girls." (Q. 19,739) "When the girls were kept in the hospital?" "When the girls were kept in the hospital, but in other respects they generally approved of it, so far as they realised any benefit to their trade." (Q. 19,802) "You have spoken of brothel keepers; what do you say of this class of persons? Have you had any experience of their mode of conducting their business? Are they a disorderly class?" "I have frequently had conversations with brothel keepers on the subject, and at times they appeared to coincide with the Act as far as it served for their convenience, as far as the girls were cleansed, in order to bring more trade to the house. They liked it on that ground, but they do not like to be deprived of the girls, and oftentimes when the girls were at the hospital it was a stimulant for them to seek out for others, inasmuch as I have heard the remark made in a speculative way—in fact it has been remarked to me—that they were going to other places to get fresh girls, a remark I heard from a person who kept 'The Army and Navy' in a speculative business sort of way, of what he was going to do this season."

It has seemed worth while to give Smith's and Phillips's evidence on this subject at some length as, from their position of specially selected Metropolitan

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police employed in the execution of the Acts, it cannot be impeached or weakened, on the ground of their fanatical opposition to the system, and it enters into details which are of a kind to throw a broad and clear light on the attitude of brothel keepers towards these special Acts, and on the general relations which must always be expected to subsist between them and the police engaged in administering laws of this class.

THE ACTS
REMOVE
EXISTING
CHECKS.

It must thus be taken as established matter of fact that, so far as the English "Contagious Diseases Acts" go, while they contain nothing on the face of them which places any fresh obstacles in the way of brothel keeping in itself, they naturally and commonly operate in such a way as to remove many of the checks already imposed upon it by the general law, and, anyway, to mitigate the unmixed odium which brothel keepers, and all other persons, have hitherto been taught by law to regard the act of brothel-keeping as properly deserving. Nor even if the law could be so amended as to secure the repression of every brothel, which could come under any possible legal definition of one, would the evil be abated so long as a system of licensed prostitution exists at all. Registered prostitutes, like other persons, must lodge somewhere, and it is absurd to expect those who administer the law to occupy themselves at one hour in registering and securing the medical examination of a prostitute, and at another hour in hunting her out of every abode to which she betakes herself. Such inconsistent, indeed such inhuman, conduct cannot be generally looked for, and will not be found. The only alternative course is for the police to select which lodging-houses they will, and which they will not, sanction. The one they will designate as "brothels" to be repressed, the other as ordinary lodging-houses to be protected. Of course the grounds of the distinction must be, in the long run, the comparative plasticity of one lodging-house keeper and

BROTHELS
AND LODGING
HOUSES.

another to the regulative demands of the police and the medical demands of the surgeon. A new system of brothel-keeping is built up in the place of the old ; and in spite of every public endeavour to avoid the formal recognition of brothels and even to abolish them, they ever reappear with a hydra-headed multiplicity, and, by the fresh accession of police support which their existence presupposes, with all their inveterate horrors as black and hopeless as ever.

Thus the observation of the system of licensed prostitution in England abundantly confirms the conclusion already arrived at from the study of it abroad that it involves, as of necessity, the institution,—either by express regulation or by the implicit operation of the law,—of licensed houses, and that this institution and the system of licensed prostitution must stand or fall together.

CHAPTER V.

CERTIFIED HOSPITALS.

CHAP. V. THE establishment of Certified Hospitals for the treatment and cure of women, found diseased at the first or any succeeding examination, is an essential feature of the system now under consideration; and much of the controversy which environs the general subject gathers round this special topic.

PREJUDICE
AGAINST
VENEREAL
HOSPITALS
AND WARDS.

It is well known that in most or all countries, up to very recent times, a deeply-rooted prejudice has existed against opening the doors of general hospitals to patients suffering from venereal diseases, and special hospitals for these diseases have been founded with the utmost parsimony. Indeed, there is no doubt that the extent to which these diseases have become developed in Europe, and the aggravated forms they have assumed in some countries are, in no slight degree, due to the gross and inhuman neglect which the sufferers from them, whether guilty or innocent, encountered as compared with the sufferers from every other class of disease. A mere survey of the regulations of the leading London hospitals affords a sufficient illustration of a disposition which was by no means confined to England. Thus, Mr. Acton (p. 79), speaking of St. Mary's Hospital, Paddington, says "venereal patients are not admitted." The registrar, Mr. Moore, writes, "We have no accommodation for in-patients with venereal disease—indeed we have a law especially

MR. ACTON
ON LONDON
HOSPITALS.

“forbidding their admission, but, nevertheless, in the
“course of the year, some 30 or 40 cases with the con-
“stitutional results of syphilis do gain admission.”

CHAP. V.

EXCLUSION OF
VENEREAL
PATIENTS.

The same is said to have been generally the case at University College Hospital, King's College Hospital, St. Thomas's Hospital, the Charing Cross Hospital, St. George's Hospital, the Middlesex Hospital, and the London Hospital. It was only at St. Mary's, Paddington, and the London Hospital that a formal rule excluded the admission of venereal patients, in the case of the latter hospital a special order of the House Committee being needed to dispense with the standing regulation. In the Middlesex Hospital a prepayment of two pounds was needed in these cases. Even, however, where the standing rules are adverse to the admission of such patients, and few or no beds are set apart for them, the humanity of the medical staff has generally succeeded in securing that venereal cases are not wholly excluded. In Guy's and Bartholomew's Hospitals a fair proportion of the beds have been given up to this class of diseases, and there is no doubt that a great change is coming over public opinion in this matter, which has probably already told upon the regulations and practice of all the leading hospitals.

One reason of this harshness in dealing with these special diseases was an indistinct sense that the sufferers got no more than they deserved; that, therefore, they were not entitled to divert to themselves the charity intended for the unfortunate and not for those who invited disease by their own voluntary actions; and that the example of alleviating the suffering directly caused by sin must have a pernicious influence on public morality and must withdraw or weaken one of the prevailing motives in certain classes of persons to self-restraint. It was overlooked or forgotten that in the case of this special disease above most others the innocent and the guilty are peculiarly merged together,

REASONS OF
HARSHNESS.

CHAP. V.

and, inasmuch as the innocent here is often the deeply-wronged, it is a grievous aggravation of cruelty to make the innocent bear the penalty of the guilty, or to withhold succour from innocent and guilty alike, because it is the guilty who, in the long run, are likely to be the most frequent applicants. But, even in respect of the guilty, there are degrees of guilt, and it is notorious that, in this case, excess of suffering is far from a criterion of excess of guilt. Rather is it true that the hopelessness and misery which attend the consciousness of having what seems, under the treatment of vile quacks, an incurable disease precipitate the sufferer who has once offended into a life of guilt. Lastly, the idea that a Hospital Board can wisely or justly constitute itself a moral tribunal and attempt to proportion its remedies to the deserts of the sufferers, or undertake the moral discipline of society is one now as wholly obsolete as it was always palpably absurd. In one sense it is true that most, if not all, physical diseases can be traced to moral causes, and, generally, to the misdoings of some persons or other, and that to arrest mischievous consequences which follow from a cause is so far to discourage active measures for obliterating the cause. But such a conclusion, if logically pursued, would dry up every fountain of kindness and compassion, and, by depriving mankind of the nutriment it finds in unselfish generosity, would destroy the energy upon which its victory over all the ills of life must ultimately be based. Thus, a logical policy of relieving no evil or misery for which the sufferer is morally accountable would defeat its own ends by palsyng all the efforts by which both moral and physical evils are combated.

A HOSPITAL
BOARD NOT A
MORAL TRI-
BUNAL.

MORAL
CLASSIFICA-
TION OF DIS-
EASES IMPOS-
SIBLE.

Nor can a line be drawn between one class of diseases and another without, first, incurring the chance of doing a cruel injustice (as was before seen) by drawing it with an affected mathematical exactness

wholly unattainable in fact; and, secondly, without teaching the very lesson it is attempted to avoid, that all the diseases on one side of the line, and none of those on the other, are due to the sufferer's fault. In this way the morbid consequences of drunkenness, idleness, surfeit, and gluttony, reckless abuse of physical powers, and even sexual vices not resulting in the special diseases under consideration, must come to be classed as diseases for which the sufferer is in no way accountable, and, therefore, for which he may properly demand treatment in a public hospital. The only rule that a public hospital as well as a private person can lay down with wisdom and humanity is to relieve instantaneously and without questioning all suffering of every kind merely because it is suffering, the only limit being that imposed by the means of relief at hand.

It is not surprising that the advocates of the system of licensed prostitution abroad, and of the form which it takes in the English Contagious Diseases Acts, should have done their best to intercept any credit that might be disposable for a reformed policy in respect of the hospital treatment of venereal patients. It was natural, and indeed fair, to urge that the first and only persons who had ever cared to cure the prostitute stricken with disease were those who made that cure an essential part in an highly organised system of licensed prostitution. It might come to be felt that no prostitute could be cured in any other way, and that a final selection must be made between persisting in the old course of inhuman neglect on the one hand, and, on the other, closing with the whole system of licensed prostitution. The value of this argument must now be examined.

There is very little difference in the part of the Regulations in the different countries as to the mode of committing women, found upon examination to be diseased, to a hospital, either, as in the case of

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ST. LAZARE
HOSPITAL,
PARIS.

St. Lazare at Paris, belonging to the Government, or, as in England, to wards specially paid for by Government, in general hospitals. Mr. Acton (p. 114) says of the St. Lazare Hospital in the Faubourg St. Denis, Paris, that "it combines an infirmary "for females with what we should here term a "bridewell. It is under the control of the Prefect of "Police, whose department consigns to it all the regularly enrolled females reported unsound by the "medical branch, and the captured *insoumises* who "are found diseased upon examination at the dépôt... "The total number of beds is about 300, of which 200 "occupy the venereal wards.*"

ITALIAN
REGULATIONS
ON HOSPITALS.

The following is Art. 83 of the Italian Regulations (see Appendix):—"Every prostitute discovered to be "suffering from primitive or constitutional syphilis, or "from any other contagious disease, shall be sent immediately to the syphilitic hospital with a medical "certificate stating the nature and seat of the malady. "The woman who shall show any doubtful symptoms "of syphilitic infection shall also be removed to the "syphilitic hospital, where she shall be kept under "observation until it shall have been ascertained "whether she is, or is not, diseased."

Art. 84 is as follows: "The prostitute who, at an "examination at the Sanitary Office, shall be shown to "be infected shall be removed immediately for treatment to the syphilitic hospital at the charge of the "office. Every transfer of a prostitute from the office "to the syphilitic hospital, or *vice versa*, shall, if possible, be accomplished in a carriage."

29 VICT. C. 35,
ON HOSPITALS

A great part of the English Contagious Diseases Act of 1866 (29 Vict. cap. 35) is occupied with the provisions for the certifying and inspection of the hospitals to be employed under the Act. The Admiralty and Secretary of State for War are to appoint an inspector and

* See in Appendix the Regulations of the *Hôpital de la Conception* at Marseilles.

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assistant-inspector (section 7). By the 8th section the Admiralty or the Secretary of State for War "may from time to time provide any buildings or parts of buildings as hospitals for the purpose of this Act, and any building or part of a building so provided and certified in writing by the Admiralty or the Secretary of State for War (as the case may be), to be so provided, shall be deemed a certified hospital under this Act; and every certified hospital so provided shall be placed under the control or management of such persons as to the Admiralty or the Secretary of State for War from time to time seems fit." By the 9th section, "Any building or part of a building (not provided as a hospital by the Admiralty or Secretary of State for War), may be certified to be useful and efficient as a hospital for the purposes of the Act on such application or with such consent as to the Admiralty or the Secretary of State for War seems requisite and on the report of the inspectors." By section 12, "No hospital can be certified or retain its certificate, unless at the time of granting of a certificate adequate provision is made for the moral and religious instruction of the women detained therein under the Act." By the 14th section, the "Managers or persons having the control or management of each certified hospital" are to make the regulations and to alter them as needed, subject to the approval in writing of the Admiralty or the Secretary of State for War. By sections 20—26, a woman found, on examination, diseased is liable to be detained in a certified hospital on the certificate of a visiting surgeon; she may, "if she thinks fit, proceed to the certified hospital named in the certificate," but, if she refuses, the "Superintendent of Police, or a constable acting under his orders, shall apprehend her and convey her with all practicable speed to that hospital;" the reception of a woman in a hospital is deemed an undertaking by the managers to provide "for her care

HOSPITALS TO
BE PROVIDED,
s. 8.

CERTIFICATES,
s. 9.

RELIGIOUS
INSTRUCTION,
s. 12.

REGULATIONS,
s. 14.

LIABILITY TO
DETENTION,
ss. 20—26.

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CONTINUED
DETENTION.

PUNISHMENT
OF BREACH OF
REGULATIONS,
s. 28.

“and treatment, lodging, clothing, and food during
“her detention in the hospital.” When once placed
in a hospital, she is to be detained there by the chief
medical officer until discharged by him by writing
under his hand. The Inspector may direct the transfer
of a woman from one certified hospital to another.
The first certificate of the visiting surgeon enables the
detention to be prolonged at the most to three months;
but it may be renewed by the conjoint certificate of the
Chief Medical Officer and the Inspector of certified
hospitals, or the visiting surgeon of the place whence
the woman came or was brought, for another three
months, making in all six months; but by the
latest Act (32 & 33 Vict. c. 96, s. 7) she may be
detained for a yet further period of three months,
making in all nine months. By section 28 of the
first Act, “If any woman authorised by the Act to
“be detained in a certified hospital for medical treat-
“ment quits the hospital without being discharged
“therefrom by the Chief Medical Officer by writing
“under his hand (the proof whereof shall lie on the
“accused); if any woman authorised by the Act to be
“detained in a certified hospital for medical treatment,
“or any woman being in a certified hospital under
“medical treatment for a contagious disease, refuses or
“wilfully neglects while in the hospital to conform to
“the regulations thereof approved by the Act; then
“and in every such case such woman shall be guilty of
“an offence against the Act, and on summary con-
“viction shall be liable to imprisonment with or
“without hard labour, in the case of a first offence for
“any term not exceeding one month, and in the case
“of a second or any subsequent offence for any term
“not exceeding three months; and in the case of the
“offence of quitting the hospital without being dis-
“charged as aforesaid, the woman may be taken into
“custody without warrant by any constable.”

These English Regulations have been given with

some fullness, and particularly because they are so stringent and have evidently been drawn with such care that they may be taken to be the type to which, in all constitutionally governed countries to which it is attempted to apply the general system, the hospital regulations will no doubt tend to approach. In countries in which the indefinite powers habitually conceded to the police are fully sufficient for the control of large classes of society secluded from the public eye, the precise description and limitations of powers conceded by law to the different officials concerned in the management of certified hospitals would be more or less superfluous. Thus any comments which may be made on the place which the hospitals occupy in the system of licensed prostitution, if directly applicable to the English regulations as above extracted, are equally applicable wherever the system is logically worked, and are, *à fortiori*, applicable in proportion to the general absence or suspense of recognised constitutional guarantees.

In the first place, then, the institution of hospitals of this sort contributes nothing whatever to the solution of the problem already discussed; or rather it only purports to solve the problem in a way far more profoundly reprehensible than was the old attempt at a solution. If the ancient principle was to cure no one suffering from venereal disease because prostitutes must be included among those treated, the modern principle is to cure only prostitutes, or rather to exact, previous to treatment, a public declaration that a woman is devoting herself to a life of prostitution, and only when this security is obtained, to provide her, free of all expense or further anxiety on her part, with "care, treatment, lodging, clothing, and food." No woman can benefit in the slightest from the abundant and even (medically) luxurious provision which these State-administered hospitals provide, without first quali-

CHAP. V. fying herself by becoming a registered prostitute, and submitting to the attendant surgical examinations. Now, admitting to the full that no efforts can be held excessive nor any pains thrown away in relieving prostitutes from the bitter physical suffering which often accompanies their life, and in making the path to medical treatment as easy instead of as rugged as possible, still this humanity must be shown only because the applicant is a suffering woman and not because she is living a more profligate life than others to whom no such hand is held out.

OBJECTIONS TO
THE HOSPI-
TALS.

The organisation of these hospitals commits two serious offences against justice and morality. It selects one class of disease out of all the diseases which are, at least, on a par with it, in respect of danger and loss to the community and of suffering to the patient; and, in favour of that class of disease alone, freely offers, at the public expense, hospital entertainment, medical treatment, food, and all other necessities required to help forward a cure. There is only one condition imposed by way of limiting the number of the applicants—and this constitutes the second offence—that is, the woman must be entered on the police register as a common prostitute. Now, it has already been seen that a hospital Board is not entitled, in view of any moral ends whatever, to weigh out its benefits by careful adjustment to the supposed moral deserts of the applicants; but certainly the policy of excluding the virtuous from its bounty and including solely the vicious, is a hundredfold more iniquitous than the harshest lines drawn by the scrupulous prudery of a former age. And yet this new policy is publicly advocated on the ground of its showing, for the first time, consideration for the physical needs of the poor prostitute.

The truth is that the hospitals selected, as in England, by the Admiralty and the Secretary of State for War, have the strongest inducement put in their

way to close their doors against all women suffering from venereal diseases who refuse to be registered as prostitutes. For registered prostitutes the hospitals receive a Government grant proportionate to the number of beds occupied. Diseased women not so registered would come on the general funds of the hospital and occupy the beds available for remunerative patients. Thus the general tendency of the system—whatever the views and efforts of particular managers may be—must be to discourage the treatment of all female venereal patients except those who are introduced by the Government visiting surgeon. Even the wives and children of the male profligate on behalf of whom so much sympathy has been rightly claimed, would have little chance of reception at any of these hospitals—however great their need—unless they could qualify as registered prostitutes.

This leads to the second objection to the institution of these hospitals in connection with the system of licensed prostitution, which is that, for the registered prostitute herself and for the general public, the institution continues and aggravates all the intrinsic moral evils already dwelt upon as characteristic of the periodical examinations, and thereby eminently contrasts with the institution of hospitals in all other circumstances. It was seen above that anyone who endeavours to remedy the effects of wrongdoing without at the same moment attacking its causes is in danger of removing, or appearing to remove, one of the motives to abstain from such wrongdoing, and, thereby, of fostering those causes. This danger has, indeed, constantly to be encountered; and the person who encounters it is bound to be as circumspect as possible in administering his remedies, and to reduce to the smallest possible point the danger of doing widespread moral injury. These concurrent and competing duties of doing good and not doing evil, or rather of doing as

MORAL
PERILS
INVOLVED.

CHAP. V.

PRINCIPLES OF
ADMINISTER-
ING RELIEF.

much good and as little evil thereby as possible are thoroughly well recognised, not only in the abstract systems of reflective moralists, but in the common utterances of the popular conscience. Indiscriminate and inopportune charity is blamed almost as severely as hard selfishness; weak indulgence towards the sinning as much as implacable anger; easy going remissness towards youthful follies as much as relentless sternness. Some of the problems thus presented are harder than others, and none is so hard and calls for such delicate consideration in its wise and righteous treatment as that presented by the claim of the licentious man or woman to be relieved, by the use of every available medical appliance, from the natural and obvious consequences of voluntary transgression.

THE PROBLEM.

The old principle of solving this hard problem was to withhold the cure altogether, and the injustice and cruelty thereby occasioned has been already fully dwelt upon. But because one method of solving a hard and real problem is bad, it is no reason for instantly concluding that there is no problem at all, or that it is a matter of entire moral indifference how it is solved. On the contrary, there is involved a real problem of considerable intricacy, on the right solution of which the maintenance of the purity of the national conscience in respect of sexual transgression may largely depend. Taking it for granted, as a cardinal principle, that all disease, however occasioned, has a presumable claim to equal medical treatment and relief, it is at least incumbent upon those by whose agency the relief is administered to select such ways of administering it as are the most likely to recover the patient from the moral condition of which the disease is a direct consequence, and to alter for the better that moral condition of society generally to which the prevalent recurrence of such diseases is mainly due.

Weighed in these scales, a State hospital for the cure of only registered prostitutes is open to the two un-

answerable objections that, first, every step of the cure from first to last must be associated in the woman's mind not with an absolute abandonment of her old life, but with an elaborate preparation for a renewal of it; secondly, the State presents itself to the public as incurring enormous expense, not for the sake of curing disease simply and generally, but of curing certain special diseases of registered prostitutes alone, and only in the interest of the male profligates (and their families, if married) with whom it is professedly anticipated the vast bulk of them will, after their cure, sin afresh.

1. As to the first objection, it must be remembered that facts teach more eloquently than words; and that, whatever they may be told by some of those who, perhaps, piously believe in their own sanguine theory, the women know perfectly well that the reason why the State incurs this expense is only because it is expected that the vast majority of them will return to the streets. Influences of this sort are very subtle, and most of all when the dull routine of hospital life interposes no object to distract thought, and when numbers are aggregated together. The plain fact stands out with unmistakeable clearness that all the trouble that is taken with the women, and all the care that is bestowed upon them, is solely to fit them the better for a renewed life of sin. It has been noticed that a clause is introduced into the English Acts by which the religious services of a chaplain are secured for the women in hospital. But this is only a specimen of the curious way in which two opposite lines of policy often come face to face in the legislation on this subject and produce results of the most incongruous kind. No doubt the presence of a chaplain, and the public recognition of the functions of the hospitals as affording a suitable occasion for reform, are palatable to the public conscience and act as an agreeable opiate to its qualms. But, as has been said, if the occasion of medical treatment in hospital is to be eminently a time for

1. MORAL
EFFECT ON
THE WOMEN.

PROVISION
FOR RELIGIOUS
SERVICES.

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reformation, there must be nothing in the practical teaching from day to day which conflicts with the inculcation of this solemn duty. The periodical examinations before admission to hospital and those which succeed to dismissal from it must both be given up. All women must be as freely admitted as registered prostitutes; and no thought, word, or gesture from those around, no suggestion even from the fact of Government interference, or from the interposition of police machinery, must so much as hint at what must henceforth cease to be true,—that the treatment is being administered for any other ulterior object than that of alleviating the sufferings of an unhappy woman. That is to say, the whole essential features of the system of licensed prostitution must be given up if prostitutes are to be cured in hospitals without sinking them in a still deeper pit of degradation than they were plunged in before they entered.

2. MORAL
TEACHING
OUTSIDE.

2. The second objection,—that what the State teaches so effectually to the individual woman within the hospital, it is teaching not less eloquently to the world outside,—is equally unassailable. If the State were to set itself to heal all diseases alike, this would be a policy which might be discussed on its own grounds, but which could not involve an imputation on its wisdom or morality because it chanced to cure many diseases which are the natural consequences of voluntary acts. Nor is the State open to any imputation of injustice if it selects for its curative effects those diseases which are most easily or unconsciously spread among vast classes of people peculiarly unable to protect themselves or to find any competent protectors. But when the State selects for gratuitous treatment a disease which in no case can be communicated except by the intervention of a citizen deliberately doing a voluntary act which common morality and the general law absolutely condemn and command him to abstain

from; and when it is obvious to everyone that the disease of a woman is cured principally or solely for the sake of an offending man and his belongings, then not only is the State convicted of making a partial choice of disease for an iniquitous purpose, but the public sentiment which otherwise condemns all vice absolutely is proportionately weakened. An offence which was before looked upon as legally and morally prohibited in all cases is now looked upon as calling for public concern, sympathy, and expenditure. Vicious men are elevated into protégés of the public under the guise of their innocent relatives; and the hospital itself becomes degraded from its dignified posture as a portal to health of body and mind into a charnel house of rotting humanity.

3. There is a further class of objections to hospitals of the class now under consideration; namely, that they are invariably penal institutions; that confinement in them is regulated by purely sanitary and not moral considerations; and that, from the nature of the case, no satisfactory constitutional guarantee can be devised for regulating the treatment of the women while in the hospital and the conditions of their dismissal from it.

3. ABSENCE OF
GUARANTEES
FOR LIBERTY.

No doubt there is room for a great variety of opinion as to the insufficiency of what are called "voluntary" hospitals for the effectual treatment of the sort of diseases by which prostitutes are most frequently beset. To expect a woman, usually badly educated and of feeble will, not only steadily to prefer the good health of herself and of others (to whom she is under the reverse of any moral obligation) before attractive objects which may be presented to her, and undeviatingly, in spite of all allurements, to adhere to a deliberate plan of cure from an appreciation of the wisdom of such a course, is to look for grapes on thorns and figs on thistles. The fact cannot be concealed, and there is no reason for concealing it, that women who are giving

"VOLUN-
TARY" Hos-
PITALS.

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themselves to a life of prostitution—however much, at times, they may welcome a healing hand—are, nevertheless, for the most part, as reckless about their bodily health as they are about all else that concerns them. Women who have already given up so much cannot be expected, as a class, to be zealous for hospital treatment merely because the hospitals are freely opened, or to continue in them obstinately against all solicitations to return to their habitual life outside, merely because they are assured that the success of their treatment depends upon its being continuous and prolonged. This is only one among many lessons which teach that, while the bodily treatment of a prostitute is an essential part of whatever can be done for her moral recovery, it is only a part, and, if pursued alone, can neither of itself effect her total recovery nor even achieve its own curative end. Neither a prostitute nor the man who purchases her can ever be finally cured of the diseases which oppress them till they are rid of the way of life which brings these diseases about. Without the use of either force or moral influence no sufficient hold of an erring woman can be obtained to make the treatment—prolonged and arduous as it must often be—palatable or even tolerable. With the use of forcible imprisonment, the disease may indeed be arrested for the time; but only by life-long imprisonment can it be prevented from recurring again and again; and the apprehension which the exercise of force exerts brings about an abiding, ever-increasing, inducement to escape from all treatment whatsoever.

EFFECT OF
HOSPITAL IM-
PRISONMENT.

THE TRUE
METHOD.

There are indeed moral influences, personal, direct, and human, addressed to the poor prostitute as a woman who is possessed of a spirit and mind, as well as of a body, by which she may be induced,—and many an one is induced,—to embrace the discipline of a wisely and kindly administered hospital. The hospital is then at once a part, and a token, of the spiritual as well as of the bodily cure. Not, indeed

that even thus the bodily treatment is always acceptable or is easy to dispense. Neither women nor men can be saved in masses or by the application of mere machinery. Each particular man and woman sins alone and must be saved alone. Each one needs the separate solicitude, the persistent efforts, the hoping against hope, the unconquerable resolve of a brother or sister, giving all his or her powers, thought, and love, to seek and save that which was lost. It is, indeed, an endless work so long as men's depravity makes their own case, and that of the women who are enslaved by it, so desperate; and it is only by lessening this depravity that the work of redeeming the prostitute in body as well as in soul can become really simplified or rendered superfluous.

It thus appears what is the nature of the objection to these hospitals which is now being examined. It is that they affect to do in a cruel, harsh, unconstitutional, way that which not even voluntary hospitals can be expected to do without the accompaniment of a personal moral energy of the most exceptional and precious sort. The hospitals in connection with the system of licensed prostitution must be accompanied by penal regulations of a kind to make them shunned, far more than any place of confinement whatever necessarily must be. There is no person to whom order, minute routine, capriciously devised punctiliousness, is more uncongenial and loathsome than to a man or woman living a life of profligacy or prostitution. Whether it is or is not a wholesome discipline to submit a woman to such a régime is a distinct question, but there can be no question about it being insupportably odious to her, especially when enforced by the policeman and the prison. The conditions are, of course, far more oppressive in that it is of the essence of the system to gather under it all the women bordering on the prostitute class, or rather all women whatever who are likely to be, sooner or later,

SUMMARY OF
THIS CLASS OF
OBJECTIONS.

CHAP. V.

or at times, prostitutes. Thus, physical treatment for disease is invariably and inextricably bound up with imprisonment under arbitrary regulations for a period of (it may be) nine months in England and of an indefinite length on the Continent. Hence, this institution of hospitals is convicted, first, of sacrificing in the grossest form the liberties of a vast number of women unconvicted of crime and only in rare cases marked out for the purpose by any judicial process whatever; and, secondly, of making the physical treatment of disease as odious and to be shunned at all hazards as any device well could make it.

It is, of course, impossible to use the same sort of arguments in condemnation of the hospitals as have been used in respect of the registration of prostitutes, the periodical examinations, or, of course, the licensed houses. These parts of the system are found to be, upon the arguments here used, irretrievably bad and inexcusable. The sole purpose of them all is the ascertaining of the area of legally permissible vice, and the protecting, refining, and facilitating it within this area. On this account, and on account of the necessarily harsh and unjust legal machinery needed to make the system work, those parts of the system stand condemned on the most obvious moral and constitutional grounds. In the case of the hospitals, on the other hand, though their existence is essential to the system, their purpose is, at the worst, ambiguous. It may be said that, though some persons may regard their main design as that of curing prostitutes with a view to a speedy return to their course of life, yet others may reasonably regard their purpose as that of curing prostitutes quite irrespectively of their conduct after their cure or even as the best means to their moral recovery; and, as it is admitted on all hands that this last purpose is, in itself, a demonstrably good one, the hospitals ought rather to be looked upon as a redeeming feature of the whole

system than as an aggravation of it. It is said, further, that the forcible retention in hospitals of persons afflicted with contagious diseases, such as small-pox or scarlet fever, is justified, in England at least, by analogies supplied by well-known statutes for the protection of the public health.

As to this last consideration, it is sufficient to notice that it is only by a clever and insidious fallacy that the diseases engendered by association with prostitutes are likened, for the purpose now under consideration, to such contagious diseases as small-pox, scarlet fever, measles, whooping-cough, and the like. In the case of the latter class of diseases contamination is easily effected through the mere thoughtless negligence of the patient or of those in whose care the patient is, and the rest of the public both are unable, without the help of law, to protect themselves against the consequence of this negligence, and have a moral right to be protected by any means not incompatible with ends equally or more precious. Such means are found in the temporary seclusion of the patient in a hospital, in rigid rules with respect to the use of public conveyances, and in intercepting all communication between the patient and the outer world. No conceivable immorality is promoted by such measures. Liberty is infringed as slightly as is consistent with the attainment of the ends in view. The intrinsic moral duty which lies on the patient to conform to the measures applied is as nearly as possible co-extensive or identical with the limits of the legal necessity. The moral right on the part of all other persons to have the benefit of such protection is about as clear and strong as it can well be. Nevertheless, even in such cases, there is wide room for discussion as to the sort of diseases in respect of which such stringent and exceptionable measures are justifiable, and as to the limitations under which alone the measures ought to be applied.

ASSUMED
ANALOGY
WITH OTHER
SANITARY
LAWS.

It is scarcely possible to picture a broader contrast

CONTRAST OF
DISEASES.

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QUESTION OF
MORAL RIGHT
AND DUTY.

than that presented by the truly contagious diseases just alluded to, and the diseases which are communicated through acts of vicious indulgence. Admitting to the full that countless young men are wholly unwarned as to the diseases even a solitary act of indulgence may bring with it, and that some married men are reckless and inhuman enough to involve their families in their own penalty, still it cannot be said either that the disease is passed on without the voluntary consent of the person who, at his risk, associates with a probably diseased prostitute, or that such a person has any moral claim whatever either as addressed to the prostitute herself or to society at large to be protected, at the expense of others, from any of the consequences of his own voluntary act of self-innoculation. Of course those who either desire to facilitate men's vices or regard them as a permanently fixed quantity—unchangeable when all else changes—will deny this proposition. They will hold that a moral relationship of right and duty can exist between two persons who, by the hypothesis, are doing a necessary, and no longer an immoral act. But for those who, basing their system on whatever moral foundation is most acceptable to them, hold the act of promiscuous intercourse purchased for a price to be inherently immoral, all thought of a moral claim based upon the act and promotive of it is simply absurd. The man cannot by paying a sum of money earn any moral right to have conveyed to him in any shape, good or bad, that which is in its nature unsaleable; nor can any obligation on the woman's part to truth, honesty, good faith, consideration, or kindness arise out of the affectation of such a sale, nor, in fact, can co-exist with it. Thus, while, in the case of the diseases which are contagious even to the most innocent, a moral duty incumbent on the patient precedes and fortifies the legal duty, in the case of the diseases springing from prostitution there lies on the

prostitute no moral duty at all in respect of the man who alone can contract disease from her. In respect of the man's family, the moral duty lies on the man himself and not on the prostitute whom he abuses.

It remains to be seen whether the institution of these hospitals can be defended on the ground that, at least, some diseased prostitutes are successfully treated in them, who might otherwise never be brought within the range of remedial efforts at all. It has already been seen that the obstacles to the reception of venereal patients in hospitals have always been considerable; and it is notorious that women suffering from the diseases consequent on prostitution have been, in most countries, at all times, treated with the utmost cruelty and neglect. A reaction from such an un-Christian and inhuman practice has naturally led to an indiscriminate admiration of any institutions which seem to be based on an opposite principle. But, if such a reaction is blind enough to welcome in a fresh form all the evils from which it turned away, instead of being a subject of congratulation it must become quite the reverse. Hospitals in connection with a system of licensed prostitution can only do some good by doing more harm. They can only, at the best, cure the diseases of those who pass through them at the price of, first, firmly wedding the vast majority of their patients to a life of prostitution; secondly, of discouraging, through their penal character, the eager pursuit of healing agencies in institutions of a wholly different sort; and, thirdly, of vitiating the surrounding atmosphere even of philanthropy itself by mixing with it the poisonous ingredients of State-regulated and protected vice. The clinging garment of evil cannot be torn from these institutions, and therefore the physical cure of the diseased woman must be sought by some method of a wholly different kind. It has already been intimated that, while all kindness and medical aid is

CHAP. V. precious and due to one so deeply wronged as the prostitute is above all others, yet a real impression on the fact of prostitution itself cannot be produced by tending the body alone or indeed by any process which does not directly and manifestly aim at condemning and reducing the depravity of men rather than conniving at it.

GOVERNMENT
HOSPITALS
GENERALLY.

It has been suggested in some quarters by those who feel keenly the mercilessness of the antiquated practice of excluding venereal patients from hospitals and who yet are not senseless of the patronage to vice which the hospitals in connection with the system of licensed prostitution afford, that all the advantages, without any of the evils, might be procured by opening at the Government expense free public hospitals specially for venereal patients or special wards for the same class of patients in general hospitals. This suggestion is extremely plausible and requires careful examination. It is usually coupled with a scheme more or less carefully elaborated for securing and even enforcing the entrance into such hospitals of all persons afflicted with venereal diseases, and for forcibly detaining them till they are effectually cured. Such a scheme often involves comprehensive provisions for the surgical examination of all persons in the Government service who are supposed to be peculiarly liable to contract venereal affections, and of other persons who are temporarily under Government control. To the last category belong paupers, prisoners convicted of crime, and even prisoners under temporary arrest. The general nature of these schemes will be best understood by examining some of them in detail.

ENGLISH ACT
OF 1864.

One of these schemes lay at the root of the English Contagious Diseases Prevention Act of 1864. The certified hospitals under this Act were organised in exactly the same way as those under the Acts of 1866

and 1869; but, instead of a woman being brought into them through the intermediate process of first making her a registered prostitute and thereby liable to periodical examinations, she must have first either voluntarily surrendered herself to a constable or have been informed against by him both as a common prostitute and as having a contagious disease within the meaning of the Act. In the case of a voluntary surrender, the woman was at once conducted to a certified hospital, detained for twenty-four hours for examination, and then, if found diseased, detained under penal discipline (as under the later Acts) for a period which might extend to three months. If an information was resorted to, the woman could only be committed to the hospital on the order of a justice "on oath being made before him substantiating the matter of the information to his satisfaction."

The majority of the Royal Commissioners of 1871 would seem, in one of their flickering moods, to have been in favour of recurring to the method of the Acts of 1864, as they recommend (s. 66), "That every common prostitute found to be diseased after an examination by a medical officer upon a voluntary submission or upon a magistrate's order, shall be detained in a certified hospital until she is discharged by a magistrate's order, or by the authorities of such hospital; provided that such detention shall in no case exceed the period of three months." Nevertheless most of the members of the Commission individually dissented from the recommendation, on the opposite grounds that the Act of 1864, though good in itself, was wholly insufficient, and that the same Act was irredeemably bad. Thus, Mr. Rylands, Mr. Mundella, Mr. Applegarth, and Mr. Holmes Coote combine to say that "they strongly dissent from all portions of the Report in which the re-enactment of the provisions of the Act of 1864 is recommended." Mr. Charles Buxton "feels it his duty to express grave

OPINION OF
COMMISSIONERS OF
1871.

MR. CHARLES
BUXTON.

CHAP. V. "doubt whether it be possible to revert to the system
 DR. BRIDGES. "of 1864." Dr. Bridges says that "the powers
 "entrusted to the police by the Act of 1864 appear to
 "him open to the gravest objections." Five of the
 PROFESSOR MAURICE. Commissioners, again, including, besides some of those
 already mentioned, Professor Maurice and Mr. Cowper
 Temple, combine to say, "We have signed the Report
 "with the reservation that our assent does not extend
 "to those parts of it which recommend the revival of
 "the compulsory powers of surgical examination and
 "committal to hospitals which were contained in the
 "Act of 1864." The seven Commissioners who were
 the most whole-hearted defenders of the system applied
 by the Acts of 1866 and 1869 are almost stronger than
 any other of the Commissioners in condemnation of the
 Act of 1864. They say (s. 4), "We think the Act of
 "1864 is open to the serious objection, amongst others,
 "that it gives discretionary powers to the police to
 "lodge an information against any prostitute they have
 "good cause to believe is diseased. This is a dangerous
 "power. The police might in some instances be over
 "zealous and active, in which case complaint and dis-
 "satisfaction would arise; or, probably, more often
 "they would be so cautious and careful as to whom
 "they would accuse, that little effect would be pro-
 "duced, and a great majority of cases of disease would
 "escape detection."

OPINION OF
 THE SEVEN
 DISSENTIENT
 COMMIS-
 SIONERS.

It thus appears that, while the central provisions of the Act of 1864 in respect to the mode of bringing diseased women under hospital treatment, were approved of by the twenty-three Commissioners in a body, after a laborious investigation extending over four months, all the most distinguished of the Commissioners,—from the most opposite points of view,—individually protested against a recurrence to these provisions. The grounds of these protests are contained in the extracts already given, and taken

together, they demonstrate the cruelty and injustice that must follow any attempt to put into the hands of the police a power so easily abused as that of throwing on any woman they please the burden of proving she is not at once a common prostitute and diseased,—especially when failure to make out her case involves the serious consequences it does.

A later scheme, of a far more subtle sort than that contained in the Act of 1864, was broached in a Bill introduced into the House of Commons by Lord Aberdare, then Mr. Bruce, Secretary of State for Home Affairs in Mr. Gladstone's Government in 1872. Owing to the unpopularity which it soon encountered on all sides of the House, this Bill was abandoned, but, as illustrating one possible mode of dealing with the question, it still has a certain measure of importance. This Bill professed to repeal the Acts of 1866 and 1869, and, in fact, did not include any distinct and express provision for the periodical examination of prostitutes. It nevertheless preserved the whole organisation of the certified hospitals, and made the following provisions for securing that as many women as possible, suffering under venereal disease, whether prostitutes or not, should be compelled to make use of them and be liable to be confined in them, as by the existing Acts, under penal discipline, and for a period which might extend to as long as *nine* months:—"Every woman imprisoned (1) on conviction of the offence of being a common prostitute, (2) or on conviction of any other offence, if it be proved at her trial that she is a common prostitute, is liable, if found at the expiration of her term of imprisonment to be affected by contagious disease, to be detained in the infirmary of the prison or to be removed to and detained in a certified hospital."

MR. BRUCE'S
BILL OF 1872.

PROVISIONS OF
THE BILL.

It is certainly in favour of this Bill that it does not openly recognise any registration of prostitutes, or

CHAP. V.
 OBJECTIONS TO
 THE BILL.

periodical examinations, or the principle of the voluntary submission. In fact, no woman could come under hospital treatment, so provided freely at the Government expense, unless it were first judicially proved that she is a common prostitute; a serious injustice, however, being inflicted when, on the trial for another offence, at the last moment proof of her being a common prostitute is tendered which she may not then and there have means of combating. The class of women who can be judicially proved to be common prostitutes must always, as has been abundantly shown, be a very small fraction of those who are really living a life of prostitution, and a still smaller fraction of those women who are liable to contract venereal diseases. Thus, if the scheme propounded by this Bill were ever so effectually worked, its sanitary influence in compelling diseased women generally to undergo hospital treatment would be of the most trifling sort; while all the moral and constitutional objections to the introduction of special and violent measures directed against women at the public expense, for the protection of men who are well able to protect themselves, and in respect of one, and that the least to be indulged, form of disease alone selected out of all diseases, would remain in unabated force.

MR. CHILDERS' SCHEME.

Mr. Childers, the member for Pontefract, and late First Lord of the Admiralty, in the debate in the House of Commons on the 23rd of June, 1875, advocated a scheme of his own. He said:—"I would abolish altogether both registration and compulsory periodical examination. I would continue the Lock Hospitals for special districts, and would give women who applied a right to admission, with the condition that no one so admitted should be discharged until she had been either cured or reported to be incurable. And I think it is fair to do so, without imposing expense upon the locality, because those districts are selected for the simple reason that in them is to be

“ found a large number of persons, a considerable
 “ portion of them being bachelors, from whom a great
 “ deal of incontinence springs, and I think that the
 “ localities are entitled to say that the special provi-
 “ sions in this respect should be defrayed at the cost of
 “ the country. I think that it would be perfectly
 “ legitimate to make this condition, that those who go
 “ into a Lock Hospital should not be discharged from
 “ it until they are either cured or stated to be
 “ incurable.”

Before reviewing this last scheme it will be con-
 venient to give the text of what is, in fact, an expanded
 and highly organised form of it as contained in a paper
 submitted by Dr. Jeannel to the International Medical
 Congress of Paris of 1867. It forms a portion of a
 carefully considered and precisely elaborated mechanism
 for the State regulation of prostitution and “ inter-
 “ national protection from venereal diseases.”

DR. JEANNEL'S
 SCHEME.
 CONGRESS OF
 PARIS, 1867.

“ CONCLUSIONS RESPECTING VENEREAL HOSPITALS.

51. “ The insufficiency of venereal hospitals is a
 “ notorious fact urgently calling for a remedy.

52. “ Venereal patients of both sexes ought to be
 “ admitted freely and without any formality into
 “ special hospitals.

53. “ Prostitutes in small towns, boroughs, and vil-
 “ lages, who are usually only expelled when they are
 “ found to be diseased, ought to be directed by the
 “ police to the nearest venereal hospital and there
 “ secluded till they are cured.

54. “ The internal management of venereal hospitals
 “ ought to be improved, so that those who are diseased
 “ should not entertain any repugnance to entering and
 “ remaining till their cure is complete.

55. “ The admission of all diseased persons wherever
 “ they come from, the enforced seclusion even of
 “ diseased prostitutes coming from unimportant places,

CHAP. V. "and the improvement of the internal management of
"the hospitals would not involve excessive expendi-
"ture if the money saved by a more economic treat-
"ment of venereal patients in the army and navy were
"applied from a certain date to improving the measures
"for warding off syphilis.

56. "The internal police regulations of venereal
"hospitals in each district ought to be based on those
"of the venereal hospitals at Paris and of the In-
"firmiry of St. Lazare, and the putting in force of the
"rules ought to be rigorously secured by a thorough
"system of inspection.

57. "The chief medical supervision of venereal hos-
"pitals ought to be entrusted at Paris to the Inspector
"General of the 'Sanitary Services,' and in the
"departments to the doctors who have special func-
"tions in respect of epidemic diseases."

Dr. Jeannel's scheme further contemplates the granting gratuitous medical advice and medicaments to venereal patients who apply for them; the periodical examination, and, if needed, the hospital confinement, of workmen engaged in large companies in the public service, and of all soldiers, sailors, and marines; and the examination of all prisoners and persons arrested for any cause whatever. Dr. Jeannel also propounds a design for an international compact, by which every Government shall be obliged to have a venereal hospital at each of its ports; every captain shall before leaving a port be provided by the medical officer of his consulate with a medical certificate of the health of his crew; and every member of the crew shall undergo a surgical examination by the medical officer of any port which he enters before the ship is allowed to have any further communication with the shore.

It has been necessary to state these various suggestions at some length and in considerable detail, first, because some of them, and notably Dr. Jeannel's, un-

doubtedly mark the direction in which a certain class of medical minds are swiftly progressing at the present time throughout Europe, and secondly, because (as in the case of Mr. Childers) even many of those persons who, on moral grounds, are adverse to the practice of licensing prostitution, listen with favour to some of these projects which, on the face of them, seem to be free from moral, or even constitutional, objections.

Mr. Childers' and some part of Dr. Jeannel's scheme agree in this, that the State is to provide at the public expense venereal hospitals, either in special districts where the want seems greatest, or in all parts of the country; that admission to these hospitals is to be gratuitous; but that the patient once admitted must abide there till the cure is complete. Mr. Childers' scheme seems to be limited to women; Dr. Jeannel's is extended equally to both sexes. While Dr. Jeannel's scheme is the most logical and comprehensive, it is, so far as this part of it is concerned, less unfavourable to morality than that of Mr. Childers.

COMPARISON
OF MR. CHIL-
DERS' AND DR.
JEANNEL'S
SCHEME.

The only grounds on which venereal diseases could deserve to be selected out of all diseases for gratuitous cure at the public expense must be either that they exceed in danger to the community or suffering to the patient every other disease while the liability to encounter them is less under the control of the patient than in the case of others; or that it is desired in some quarters, for one purpose or another, to expend public money in order to facilitate and protect vice. Of course, as was said in an earlier chapter, the greatest discrepancies of opinion prevail as to the exact magnitude and importance at the present day of venereal diseases; and while some authorities hold that they are becoming the scourge of modern Europe and threaten to bring about a serious degeneracy in the race, other authorities, equally trustworthy, treat the more preva-

PRINCIPLES
INVOLVED.

CHAP. V. lent forms of them as comparatively insignificant, and
 ————— anyway, as becoming less and less deserving of special
 attention. Thus, in the Eleventh Annual Report of
 MR. SIMON'S the Medical Board of Health, Mr. Simon, the Medical
 REPORT. Officer to the Board, writes in language carefully
 weighed and moderate enough: "I have not the least
 "disposition to deny that the venereal affections con-
 "stitute a real and great evil for the community;
 "though I suspect that very exaggerated opinions are
 "current as to their diffusion and malignity; but since
 "the resources of curative medicine against them are
 "constantly becoming stronger and stronger, it seems
 "probable that the worst of them will year by year
 "become less and less important (as endangering life
 "or limb) in cases where infection may obtain. It
 "may also be anticipated that the greatly improved
 "knowledge which late years have given to the medical
 "profession with regard to the venereal contagia will
 "spread, and not very slowly spread, through the
 "minds of the general public, and will soon very much
 "reduce the number of those sad cases where infected
 "men give syphilis to their wives and offspring."

It would be useless to affect, in a treatise like this present one, to collect all the medical testimony on both sides as to the importance of this class of diseases in comparison with others and to sum up in favour of one view or the other. Suffice it that nothing could justify the exceptional position to which it is attempted to raise venereal diseases, but an amount of uncontradicted evidence, or an undisputed balance of evidence, in favour of their exceptional danger and intensity in comparison with all other diseases which it is needless to say is by no means forthcoming. The circumstance that these diseases are more directly connected with voluntary vice than any other must surely point to a remedy first being sought through moral or ordinary legal agencies of various kinds before the constitution of the

country is strained, and its principles of just expenditure imperilled, in lifting the sufferer from those special diseases into a position of wholly undue and mischievous privilege.

GROUNDS OF
 PUBLIC EX-
 PENDITURE.

But supposing no case can be made out in respect of the extraordinary danger to a helpless community which these special diseases, in comparison with all others, present, then the only remaining argument in favour of devoting public money to the cure of persons suffering from this class of diseases above all others must be that it is a matter of extraordinary public concern that vice should either be directly facilitated or, at least, indulged in with as little expense to the general community as possible—even though this reduction of expense necessarily involves an extension of its area. There are no writers who have the effrontery to avow in so many words that secure indulgence on the part of men is one of the benefits of advanced civilisation which must be provided for at the public charge and at any needful sacrifice on the part of women; but there are foreign writers who, with all their hypocritical condemnation or contempt of profligacy, implicitly admit this doctrine. There can, on their showing, be no ground whatever for the enormous machinery they would call into existence for the cure of venereal diseases, as contra-distinguished from all other complaints, except that every one must acquiesce in the permanence of male vice and abet it. Free public hospitals in every town for none but venereal diseases mean that the ratepayers, or taxpayers as a class, have a greater concern in women being safe for promiscuous intercourse than they have in the same women being cured of every other complaint that flesh is heir to but a venereal one. But this is only saying in other words, that citizens must pay for their vices, and the State must organise the machinery by which they can most effectually do so. With all their show of philan-

FOREIGN
 WRITERS.

CHAP. V.

thropy, such hospitals are no better than vestibules to the public brothel.

But in England, at least, the public conscience is not as yet so grossly seared as this state of things supposes. Whatever errors have as yet been committed here, either in theory or practice, are due far more to a culpable thoughtlessness and pre-occupation with the apparent demands of the public service, than to a conscious acquiescence in a claim for secure vice. It is

THE LICENS-
ING SYSTEM IN
ENGLISH DE-
PENDENCIES.

well known that the system of licensed prostitution under the English Government was first put in force in the English dependencies, and no doubt, solely with the view of reducing the expense and inconvenience caused by the diseases contracted by the troops and sailors.

DR. ROSS'
EVIDENCE.

Dr. Ross, surgeon to the 92nd Highlanders, in his evidence before the Royal Commission of 1871, gave a vivid description of the practice witnessed by himself in India, which, for anything that appears to the contrary, may still go on or may be revived whenever the authorities deem it expedient. (A. 15,129) "I was in India twelve or thirteen years ago, and when a regiment arrives in India, a certain establishment is told off for each regiment as it arrives, and amongst others there is an establishment of prostitutes who are housed in the bazaars, and regularly looked after by the matron appointed for the purpose, and superintended and examined by the surgeon of the regiment." (A. 15,168) "When a regiment marches into the station there are certain persons of every description, what we call camp-followers, told off for that regiment, and in fact when a regiment in India goes on a line of march there is a form to be filled up, and in one column there is amongst the camp-followers one for prostitutes, showing the number who are permitted to follow the regiment, and those women we made a point of examining every fortnight." (A. 15,179) "There is a head woman under the name

INDIA.

“of the matronee, who is at the head of the kusbees
 “or prostitutes, she selects the women; she is told
 “that such and such a regiment is coming into the
 “station, and according to whether the regiment has
 “had a name sent before it or otherwise, she gets a
 “small or a large number of women to come to her.”
 (A. 15,180) “When I got to India with my regiment,
 “three years ago, there were only twelve women came,
 “but I desired that they should increase the number,
 “because I knew it would only be a source of disease
 “afterwards having such a small number of women for
 “such a large number of men.” (A. 15,187) “[At
 “Aldershot] I asked the commanding officer’s permis-
 “sion to assemble the men on parade, and having told
 “him what instructions I intended to give, I asked
 “permission to give those instructions to the men
 “how to prevent the disease, and with his sanction I
 “did so.”

PRACTICE AT
 ALDERSHOT.

Dr. Barr, surgeon to the Lock Hospital at Aldershot, DR. BARR.
 quite substantiates Dr. Ross’ professional view that it
 is in the interest of the public service that up to a
 certain point prostitutes be multiplied, and that it is a
 duty of the military surgeon to co-operate in vice being
 rendered as innocuous as possible, that is, in other
 words, to facilitate it. In answer to the question
 (Q. 13,909) “According to your judgment, these
 “230 (prostitutes) are a very small number indeed for
 “13,000 soldiers?” Dr. Barr replies, “Speaking in a
 “sanitary way, I think they are, for the number I
 “mentioned—viz., 13,000 regular and 6000 militia”
 (Q. 13,910) “Is it not a fact, that if men go with
 “women with great frequency disease is sure to arise
 “out of it? Supposing, in fact, a very small supply of
 “women, and a great number of men, will not that
 “have a tendency to increase the extent of the disease
 “among them?” “I do not know that it has a ten-
 “dency to increase disease among the women to the

CHAP. V. "same extent that it has among the men. You see
 "that when these women, as I said before the House
 "of Commons Committee, come to me, my custom is
 "to instruct them to keep themselves clean, to use
 "injections and lotions, and do all they can towards
 "keeping themselves and the soldiers free from disease."
 A system based on the English Acts is also at work in
 Bombay. (See Appendix.)

M. DAVILA. With regard to the precautionary measures above
 alluded to, it may be mentioned that they have
 attracted much attention abroad. Thus M. Davila
 (*De la Prophylaxie de la Syphilis*, Paris 1853),
 DR. MIREUR. cited by Mireur (p. 339), proposes giving each re-
 gistered prostitute a paper in which she would
 find all the regulations which concern her, and also
 sanitary advice. Dr. Mireur, whose moral sensitive-
 ness is of the most incalculable sort, is shocked with
 this suggestion, and says: "This proposal which seems
 "excellent in theory, is invested with an unquestio-
 "ably immoral character when it is put in practice.
 "As a proof, we direct the reader to the obligations
 "which M. Davila would have inscribed on the docu-
 "ment he desires, or better still, to the letter cited in
 "the report of the Paris Congress, and addressed by
 "the sanitary police of Christiania to the commercial
 "doctor of that city. He will find there minute instruc-
 "tions relating to the most particular points for indi-
 "vidual precaution, such as we could not venture to
 "reproduce here. In spite of these being, in truth,
 "nothing but highly salutary notices on points of
 "health, we, for our part, should regret seeing the
 "Administration undertaking to patronize them. They
 "belong to those kinds of instruction which are legiti-
 "mate so long as they are private, but in becoming
 "official become odious."

Englishmen, as has been seen, are more logical
 in this respect, and in being so, and thereby
 bringing to the front the true characteristics of

the system, render an important aid in overthrowing it. Foreigners prop it up by shrinking from its natural consequences and drawing wholly arbitrary lines between what is, and what is not, morally permissible. They thus confuse the public mind, and keep up the appearance of showing a respectful deference to the claims of morality. Mr. Berkeley Hill, F.R.C.S., in his evidence, showed how the British Government had for many years past had in force a system of licensed prostitution in the British settlement of Hong Kong (see Appendix), that system being introduced in connection with a strict system for the examination and hospital treatment of merchant seamen. An ordinance of 1867 rendered more stringent the regulations under an older ordinance of 1859. In answer to the question how are the new regulations more stringent than those now in force in England, Mr. Berkeley Hill replies, (A. 14,771) "One thing I know they cast upon the brothel keeper is, that if a diseased woman is found in a brothel, the brothel keeper is liable for the cost of the woman's keep in hospital; but the brothel keepers are also licensed—there is no mistake about it—they are licensed brothels." Here are, for instance, the clauses relating to licensed brothels. "The Registrar-General may grant to any person whom he shall think fit a license to keep a brothel in such district or other locality as the Governor in Council may from time to time appoint." Then, clause 18 :—"Every keeper of a licensed brothel shall pay to the Registrar-General the sum of four dollars a month during the continuance of such license, or such other sum as may from time to time be fixed by the Governor in Council." Penalties may also be enforced against a brothel keeper if disease is contracted in his house, and against anyone bringing disease to the inmates of licensed houses; also against prostitutes elsewhere than in licensed houses."

In Malta again, Mr. Pickthorn, visiting surgeon for MALTA.

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MR. PICK-
THORN'S EVI-
DENCE.

the Devonport district, and who was a ship's surgeon at Malta from 1861 to 1866, describes the system in force. He says, (A. 1546) "Whenever a man contracted any form of venereal disease in the fleet, the ship's corporal generally took him to the place where he contracted it, and any woman he reported as having given him the disease was at once taken before the surgeon for examination."

ALLEGED LOSS
TO THE TWO
SERVICES.

In addition to all this evidence as to the motive and nature of the licensing and regulation system in English dependencies under direct control of the Executive Government at home, it is notorious that, whatever might have been the ulterior designs of some of the promoters of the English Contagious Diseases Acts, the main arguments in support of that legislation alleged in the House of Commons, and before its Select Committees, have been based on the expense and loss to the two services caused by venereal diseases. It is no doubt owing to their belief in the medical efficacy of the system in keeping down disease in the army and navy, that the Executive Government in England are so obstinately tenacious in their hold upon it; though, of course, they are able to rally to their support a vast number of other persons who are attached to the system for very different reasons more or less reputable. In Mr. Childers' scheme, already described, the notion of free government hospitals in those special districts in which bachelors are wont to be assembled in large masses undoubtedly points to this justification of the system; and, inasmuch as it is quite possible to defend the system on this ground alone, that is, in respect of its being called for by the inexorable demands of the public service, when all other positions are surrendered as untenable, the arguments of this sort must be carefully examined by themselves.

There is no doubt that, given a certain condition of things, confessedly evil, it is far easier to attempt to

modify some of the consequences of the evil by retaining things as they are, and introducing fresh evils by way of temporary accommodation, than by sweeping away the condition of things altogether and encountering an entire change. Those who administer a Government are often incompetent to effect organic changes, and yet they are held responsible for the bad or expensive working of the machinery entrusted to their care. They are thus inordinately tempted to accept any abuse which has descended from their predecessors, and to use desperate measures to arrest, during their tenure of office, some of its most inconvenient consequences. Of course, the number and unconscientiousness of subordinate officials, the complication of an unwieldy political mechanism, the necessity for regularity and routine, the very quantity and magnitude of the affairs to be transacted, all oppose so many obstacles to direct and comprehensive reforms.

CHAP. V.
OBSTACLES TO
CHANGE.

Now there is no doubt that the constitution of the English Army and Navy at home and abroad is the result, partly, of a tortuous course of traditional policy, and, partly, of sundry spasmodic efforts at piecemeal legislation. Anyway, it is notorious that the long periods of enforced service, the discouragement to matrimony, the low class of society from which the men are selected, and innumerable other causes, have conspired to bring about grievous habits of immorality in the Army and Navy, which, among other results, express themselves in the heightening of the estimates. At the same time it is well known that many beneficial influences have of late years been brought to bear upon the Army which are making themselves distinctly felt. The evidence of Sir Richard Airey, G.C.B., Adjutant-General of the Forces, before the Royal Commission, as to improvements now going on in the soldier's condition, is very noteworthy. On being asked, (Q. 15,868) "You are aware that a great deal has been done to improve the morale of the soldier of late years, to

CONSTITUTION
OF ARMY AND
NAVY.

SIR RICHARD
AIREY'S EVIDENCE.

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"find him occupation, amusements, libraries, and so on," General Airey replies: "To a man who entered the service when I did, fifty years ago, it is scarcely credible." (Q. 15,869) "You think that the consequences of this disease are much less now than when you entered the service?" "Yes." (Q. 15,870) "And they have been steadily diminishing from the time you entered to the present time?" "Yes, I think so." (Q. 15,871) "Owing to the better class of recruits and the better care that is taken of the men's morals altogether?" "I think from the better supervision that is exercised over them; but it has prevailed in all classes of society too."

EXTRACT FROM
THE "PRO-
FESSION OF A
SOLDIER."

The following extracts from a pamphlet on "The Profession of a Soldier,"* by one who has served in the ranks, is suggestive of many improvements yet needed. "It is much to be regretted that the Government should have decided to build so many new barracks, and consequently increase the number of garrison towns, because no sooner will the military take possession of those places, than there will be an influx of persons of ill fame, and vice will abound. Soldiers are not wholly to blame for this state of things, because it is to a certain extent forced upon them. They have nothing to do and nothing to think about when not at drill. So much sameness and repetition makes a soldier's life monotonous and uninteresting to him, because after learning his drill his mental work is done. There are schools and reading-rooms provided certainly, and a few soldiers avail themselves of those privileges, but the many stand aloof. The majority of men, both in civil and military life, care nothing for reading books; then, I ask, what are such men to do in the army, where, as I have already said, there is no rational employment for the mind? The answer

* Published by Tubbs and Brooks, Manchester.

“ is not far to seek. They turn to recreation, and that
 “ of the cheapest and, consequently, the grossest kind—
 “ such places as the low singing-saloon, free-and-easy,
 “ &c. At those places they indulge in drunkenness
 “ and immorality to their heart’s content. This is the
 “ very essence of a soldier’s life, and the result of a
 “ great number of men being banded together, having
 “ no intellectual pursuits, no social position to lose,
 “ and no responsible duties of citizenship to attend
 “ to. Of course there are exceptions; but it is with
 “ the rule, and not the exceptions, that I am deal-
 “ ing. The same men, scattered about in civil society,
 “ might be steady, respectable members of society.
 “ A very large proportion of recruits are agricultural
 “ and other kind of labourers, who have never been in
 “ a place of ill fame. Immediately they get their
 “ uniform, a pair of white gloves on, and a cane in their
 “ hand, they are taken out pleasure-seeking by old
 “ soldiers. The consequence is they soon become
 “ steeped in a vice of which they had hitherto been
 “ entirely ignorant, and when once the habit is con-
 “ tracted it is rarely ever abandoned while a man re-
 “ mains in the army. Every year this great training-
 “ school of vice and immorality receives a few thousand
 “ fresh pupils, and annually discharges a number of
 “ confirmed drunkards.”

These extracts from an anonymous writer are only given by way of recalling to the reader’s mind facts which an overwhelming amount of evidence from a variety of quarters abundantly confirms. It is true, on the one hand, that the condition of the British soldier and sailor is, both morally and intellectually, extremely bad. It is true, on the other hand, that this condition is eminently remediable, and that tentative and partial remedies, attended with a most encouraging amount of success, are already being applied.

But such devices as those resorted to in India, Hong Kong, Malta, and certain military and naval stations

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in England and Ireland can only be based on the theory that the moral condition of the soldier and sailor is irremediable. His condition being desperate he must be treated as the brute that he is, and his vicious indulgences rendered as little troublesome and expensive to the country as possible.

No doubt when the area is extremely limited and all the circumstances completely under control, as in some outlying foreign stations, a considerable amount of physical security can really be attained by the careful meting out and incessant superintendence of the exact number of prostitutes found by experience to be in demand by a given number of men. But even this miserable result becomes vastly more uncertain and perplexed as the absolute isolation of a foreign station becomes exchanged for the imperfect isolation of a home station; and where, as in England, the system is only partially in force, the physical gain to the soldier cannot but be, in spite of any amount of apparent statistics to the contrary, of the most dubious sort, the encouragement to increased vice always keeping pace with the activity applied to supervising it.

TWO MODES
ONLY AVAIL-
ABLE.

The only two conceivable modes of reducing the expenses caused by the venereal diseases of Government servants are those of providing a better class of servants, or (if it were possible) a less expensive sort of vice. The two modes are quite incompatible and irreconcilable. To provide and facilitate vice, under any plea whatever, debases the servants and places ever at a more remote distance the time when such provision is needless. On the other hand, to provide a superior class of public servants or to improve the character of the present class by ameliorating the conditions of the service is to supersede all necessity for providing the vice which ceases any longer to be in demand. Nevertheless the temptations to Governments to tamper with

vice, which is easy, instead of changing the conditions of the service, which is often hard, are always at hand, and often they produce the extravagant result now witnessed in many countries of Europe,—that of elevating the soldier's *morale* by education, occupation, libraries, and the like, with one hand, and obtruding on him a highly organised system of guaranteed vice with the other.

One of the most specious forms which this Government attempt to pander to the vice of its servants takes, and in which it will probably find its latest refuge, is that of simply providing, at its own expense, free public hospitals for venereal diseases in districts largely frequented by its own servants. This proposal, which in fact is that of Mr. Childers already adverted to, besides being open to all the general objections of placing venereal patients in a position of advantage as compared with all others, must only mean that the Government is placing men in circumstances of special temptation, and that it desires to mitigate the consequences which must attend their fall. Of course the position may be turned round and it may be said the Government only provides, as best it may, some compensation for the necessary evil which its essential institutions unhappily, but unavoidably, carry with them. Its purpose, it may be said, is not to enable its servants to sin safely and easily, but to cure those with whom they sin. But whatever may be the hidden motives of one or another statesman in promoting Government hospitals, their object must, at the best, appear dangerously ambiguous; and while the result must be to facilitate the profligacy of the Government servants collected in the neighbourhood, in consequence of whose presence these hospitals are called into existence, they also provide a ready machinery always at hand by which a full fledged system of licensed prostitution can, even after its formal abolition, be created

FREE
GOVERNMENT
VENEREAL
HOSPITALS.

CHAP. V.

afresh at any moment by a hard-pressed Government taking advantage of public inattention or apathy. There is only a step between curing a woman in a Government hospital, and requiring her to return at stated periods to have the condition of her health tested and a certificate renewed, the possession of such a certificate being made the criterion of a Government licence so far as its own servants are concerned. Here is, in fact, the system of licensed prostitution in many of its most characteristic features, the only difference being that registration would always be voluntary and effected only through the medium of the hospital. The soldiers and sailors would, of course, be punishable for having intercourse with any but registered prostitutes, the result of which must be even a still grosser perversion of moral ideas than the present system brings about, without even a plausible show of conferring any sanitary benefit on the general population.

RESPONSIBILITIES OF
GOVERNMENT.

It may be that some conditions of life abound in exceptional temptations, and the Government may, at a particular juncture, hold itself obliged to create institutions which are, in their nature, unfavourable to self-respect and chastity. No doubt an army and a navy, however organised, are institutions of this class, and Government is accordingly bound to take special measures to keep temptation at a distance. But because virtue may be harder in some conditions than in others, Government is not entitled to organise its institutions in such a fashion that virtue seems for many an impossibility, and still less unblushingly to assume and avow that it has become an impossibility. This is what Government does when it provides or supports or concerns itself in hospitals for prostitutes in those districts in which its own servants are congregated. Private persons are in an entirely different situation. They can with clean hands do their utmost to cure diseases which no institution for which they are

RESPONSIBILITIES OF
PRIVATE
PERSONS.

directly responsible has brought about. They have, directly, no control over the conditions which make garrison towns and naval ports hotbeds of vice. A private hospital can never, without Government interference, become a medium for publicly licensing prostitution. The case is exactly the reverse with a Government hospital, and therefore no contribution to the support of hospitals ought to be accepted from Government which involves any control over the hospitals or which is not accorded with perfect impartiality to hospitals for all diseases equally and in all parts of the country.

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This chapter may be appropriately closed by two extracts from eminent foreign writers on the general subject. The first is from a letter of Dr. Mauriac's, dated January 31st, 1875. (See the *Medical Enquirer* for April 15th, 1876.) Dr. Mauriac is physician to the Hôpital du Midi, Paris, and this letter is an interesting exhibition of the moral misgiving and conscientious doubts which are beginning to beset so many professional devotees of the Regulation system :—

“ I am a great partisan of the measures of repression DR. MAURIAC.
 “ used at Paris. It may perhaps be opposed to the
 “ principles of individual liberty, but it is extremely
 “ useful in the point of view of hygiene. It appears to
 “ me incontestible that, if we were to sequester all
 “ persons attacked with venereal contagion until they
 “ were completely cured, it is not to be doubted that
 “ we should arrest the propagation of the disease.
 “ That is the method the most simple, energetic, and
 “ radical. I do not say the most moral or philosophical.
 “ Whatever the practical solution adopted may be,
 “ regulated repression, guided by curative, preventive,
 “ and hygienic medication, will always be of incon-
 “ testible efficacy.

“ But (adds M. Mauriac) in order to take away the
 “ reproach of injustice, first of all, it ought to be applied

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“ as rigorously, and even more rigorously, to men than
 “ to women. Therein lies the odious nature of the
 “ present law. Why do they imprison a poor woman
 “ who has infected without knowing it, and in order to
 “ gain her living, several individuals who have sought
 “ her but for their pleasure, whilst they leave in perfect
 “ liberty these same individuals who, having but their
 “ pleasures alone to satisfy, infect, without any scruple,
 “ women obliged to undergo their contact for a morsel
 “ of bread to eat ?

“ With an energetic repression, guided by medical
 “ science, and directed against *men* as well as women
 “ (says Dr. Mauriac), I think we should attain extra-
 “ ordinary results. But is this possible ?”

The next extract is from a lecture delivered by Dr. Eugenio Fazio, before the Southern Medical Association of Italy. After indicating his strong opposition to the movement for abolishing the Regulation system, he says :—

DR. FAZIO.

“ But here arises a very serious objection. Having
 “ placed the women under surveillance, reduced the
 “ number of clandestine prostitutes, and taken every
 “ possible precaution to pluck up the root of the evil on
 “ every side, always as regards women, can we say that
 “ we have fulfilled all our duty,—and can we describe
 “ ourselves as easy concerning the terrible evil of syphilis?
 “ Gentlemen, we shall have done very little if the sur-
 “ veillance *does not enlarge its sphere by extending to*
 “ *men as well,—if the law does not strike the libertines*
 “ *also*. It is really unjust that the laws should be
 “ directed, even to persecution, against the unhappy
 “ victims of misery and seduction, as if they were the
 “ only source of the evil that we deplore, whilst both
 “ men and women who indulge in lust are equally
 “ dangerous as regards the maintenance and diffusion
 “ of disease. All agree on this point, but it is here
 “ that we meet the greatest difficulties.” After giving

an account of different suggestions and existing methods of overcoming those difficulties, he proceeds: "The best method that recommends itself seems to be the one which has been found useful in some countries, namely, to subject to medical inspection some classes of men that spread the largest amount of disease, and who easily propagate disease, as for instance, workmen, soldiers, and sailors." He concludes as follows: "The existing laws do not, doubtless, answer any longer to the exigencies of civilization and science, because they are only partial, incomplete, contradictory rules, that leave to the arbitrary will and caprice of vulgar agents the strongest and often the cruellest interpretations, and do not in the least guarantee the public health."

CHAPTER VI.

COMPARISON OF THE ENGLISH AND FOREIGN METHODS.

CHAP. VI. THERE are no doubt some characteristic differences in the mode of applying the system of licensed prostitution long adopted on the Continent and the mode recently introduced into England. These differences are due partly to the peculiarities of the English constitution to which the new system had to be made at least plausibly conformable; partly, to the religious and moral objections which such a system could not but encounter in England in proportion as the existence of it became divulged, and the nature of it understood; partly, to the lengthened experience gained in other countries which the founders of the system in England were able to avail themselves of in their attempt to create a structure which might, at least, ostensibly seem proof against all the assaults on moral and constitutional grounds to which the system, as it has hitherto existed abroad, has been intermittently exposed.

It was noticed in the opening chapter of this work that while some English authorities, such as Mr. Acton, are of opinion that the true mode of squaring the circle has at last been found in the English Acts, which (as they hold) contrast most favourable with what Mr. Acton, and others in general accordance with his views, admit to be the gratuitously immoral characteristics of the French Regulations, French writers look upon the English method as a mere perfecting of their own, and

as presenting a type which all other countries must henceforth do their utmost to copy. Not indeed that the most competent and intelligent foreign critics believe that the English method is at all satisfactory if it remains where it is. They rather admire it because of what it might be made by being extended and strengthened, and welcome it because they think it indicates a surrender, on the part of the British people, of those hypocritical prejudices and that moral squeamishness which has so long stood out against the acceptance of prostitution as a necessary and everlasting, if not beneficial, fact. The following extract from M. Lecour's careful examination of the English method is valuable as the opinion, not of a one-sided doctor, but of a practised administrator versed in all the inherent difficulties which attach to the execution of the system in all its forms. M. Lecour says, speaking of the English Acts (*"La Prostitution à Paris et à Londres,"* 1872, p. 294):—"It cannot be doubted that

M. LECOUR
ON THE
ENGLISH
METHOD.

"in a comparatively short time there will be a new
"Act, which shall have for its object to extend to the
"civil population of England the provisions of the Act
"of 1866, amended by the Act of 1869.

"From the time when this step shall have been
"taken, and the necessity shall have arisen for its
"application not only to military centres, where the
"class of abandoned girls is of the most wretched
"description, but to a city like London, with its prostitutes who are counted by thousands, and its multifarious shades of prostitution, it will be impossible
"to deal merely with the sanitary question; and, even
"with respect to this, the English methods of committal
"to hospital and of judicial summons in regard to
"medical examinations and treatment, which I have
"analysed above, will be practically impossible of
"execution.

"In any case, the mere attempt to carry the system

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M. LECOUR.

NECESSITY OF
EXTENSION IN
ENGLAND.

“into operation will necessitate the enumerating and
 “classifying of the women to be ranked as prostitutes.
 “The summoning of these women, their submission,
 “whether voluntary or by magisterial order, to sani-
 “tary obligations, will involve the creation of an Office
 “for the absolute control of prostitution, and, in short,
 “the complete registration of public women will be estab-
 “lished. The women not yet subjected to examination,
 “the mass of diseased women, whom the public will
 “not fail to point out as soon as they know that they
 “may count on the interposition of the authorities, the
 “prostitutes who infest the streets and certain public
 “places, those who evade detention in the special hos-
 “pital either by neglecting to attend there after having
 “been found to be diseased, or by quitting it without
 “being cured, will constitute the category correspond-
 “ing to our *insoumises* of Paris. It will be necessary
 “as with these, to bring them under supervision, to
 “search them out, and to place them, by judicial means
 “if not by means of the police, under the operation of
 “coercive and sanitary measures. All the grievances,
 “all the complainings, all the exigencies which are
 “engendered by debauchery, and which the convenient
 “system of letting alone reduced to silence, will produce
 “themselves with an urgency which will continually
 “increase. Coercion will be demanded, and will have
 “to be put in execution. No matter in what court,
 “judgment will have to be given in a summary, special,
 “and expeditious manner, forced as it will be to deal
 “with all the turpitudes, the miseries, and the scandals
 “of debauchery. A Police Direction rather than a
 “judicial function will thus be established, and under
 “these conditions there will be created the equivalent
 “of the regulation of prostitution in Paris. This will
 “not be done by a single blow, but it will come by
 “degrees.

“In centres where the population, turbulent and
 “agitated, is incessantly traversed by currents of fresh

“arrivals, such as London and Paris, and perhaps
“especially London, on account of its commercial and
“maritime activity, there is no medium : it is necessary
“to choose between abstention which, in such a matter
“and with such elements of disorder becomes dan-
“gerous, and regulation, to the difficulties of which
“there is no end, which has to calculate and deal with
“morality, prejudices, exigencies, wishes, wants, and
“critics of every kind.

“These obstacles are only to be surmounted by that
“continual effort which constitutes the *raison d' être* of
“authority, and its title to the esteem of the people.
“Let us add that, in England, this task ought to be
“rendered easy, by the religious habits of the nation
“and by its respect for the law.”

It is probable that wherever the political institutions are based on those of England, as is the case in all the States of the American Union, and in other States on the American Continent, in the English Colonies possessing representative institutions, and in an increasing number of newly created or re-constituted States in different parts of the world, which take either England or the United States as their pattern, a system of licensed prostitution, if introduced at all, will follow the English rather than the Continental type. On these several grounds then,—that is to say, for the instruction of the European foreigner who covets, of the Englishman who plumes himself on, and of the American or Colonial or other foreign statesmen who is disposed to copy, the English method of licensing and regulating prostitution,—it is of great moment to examine every part of the English method in contrast with the corresponding part of the foreign method, as well as to compare the two methods as integral wholes, and thence to ascertain whether, and to what extent, one of the methods is free from objections which attach to the other.

CHAP. VI.

A STATUTE
NEEDED IN
ENGLAND.

I. The first point that arrests attention is, that in England the system is put in force by statute, and it is only by the express terms of a statute that the powers of the police, the functions of the surgeons, the qualities and amounts of the penalties, are described, and, as far as possible, strictly limited. It is necessary to insert the words "as far as possible," because it was seen in the previous chapter on "Law and Police" that it is generally acknowledged and is clear, from the nature of the case, that, unless very large and indefinite powers are conceded to the police, such as are conceded to them for no other purpose whatever, even a plausible prospect of sanitary success must be unattainable. Nevertheless, it is true that, while it is a matter of grave doubt whether the regulations made and put in force by the French police can be supported by any passage in the Code; while in Italy the utmost public sanction accorded is that of an article in the Penal Code, which enables the police to make and enforce such regulations; while Germany has persistently refused to embody these regulations in her new general Penal Code (see Appendix), and only the Colony of the Cape of Good Hope has followed England in passing a statute on the subject (but has anticipated England in repealing it), England stands alone in enacting "by the "Queen's most excellent Majesty by and with the "advice and consent of the Lords Spiritual and Temporal and Commons in Parliament assembled," all the distinct and essential regulations needed for the effectual licence and protection of prostitution.

Of course, the English constitution is such that if the work was to be undertaken at all it must be by Statute, and by a Statute which, as has been previously shown, is in flagrant contradiction to the Common Law. There is in England no latent executive power which could have enabled the police to place before any woman in the country the choice between three courses, that of submitting to an abominated surgical examination

without further question, that of repelling before a Court of Justice the charge of being a common prostitute, and that of going to prison. CHAP. VI.

There were, in the forms of English legislation, exceptional facilities for passing Acts of this nature. The Bills seemed on the face of them, and by help of a grossly misleading title, specially and solely interesting to those who were responsible for the health and expense of the Army and Navy, though their true nature was well-known to those persons, mostly doctors, who had long been admirers of the Continental method of regulating prostitution, and had been waiting for a chance of introducing it into this country. The whole subject was one not unnaturally offensive to the tastes of most of the members of the two Houses, and one as to which they would welcome any excuse for avoiding a lengthened discussion, the more so as it might seem peculiarly to require the opinion of experts. Thus, the matter was chiefly discussed in Select Committees, the composition of which, and the witnesses summoned before which, are of course manipulated chiefly by those who care most about the matter—that was, in this case, those who were warm advocates of the licensing system. The report of the Committees in favour of legislation was equally, of course, received with readiness, and further discussion evaded, under the cloak of the whole question being either purely a “sanitary” one or one affecting only the Army and Navy—two classes of topics which, a few years ago, except in case of party struggles, invariably thinned the Houses. It was not surprising then, if, in spite of the vehement protestations of a few isolated members, one Act after another was passed through both Houses, without public attention being so much as awakened to the decisive and novel steps the country was taking.

Nevertheless, the English constitution contains the cure for its own ailments if English citizens will but

FACILITIES
FOR PASSING
THE ACT.

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STATUTES AND
POLICE
REGULATIONS.

LOOSE
WORDING OF
THE ENGLISH
ACTS.

apply it. The system of licensed prostitution being necessarily, in this country, introduced by Statute law, if at all, every opportunity is afforded the people of making themselves acquainted with its nature and its limits; and, if they dislike it, of securing its abolition. In countries where there is no law, strictly so called, on the subject, there is nothing definite to abolish; and where the system has been for years upon years bound up with the police administration, it would be hard by a single stroke of legislation to strike the system down so effectually that it could not silently and secretly grow up again without anyone being aware of it. It would involve almost a constitutional change in the legal rights, duties, and functions of the police. Furthermore, the regulations of the police abroad are constantly varying, and it is almost impossible to know at any given moment what are the existing rules, and still harder to ascertain what interpretation a Court of Justice would place upon the detailed rights and duties of the police. This last difficulty exists in England likewise, but, at least, it is only of the less important kind which always attaches to the construction of express written law, and it does not arise from the necessity of reconciling the conflicting claims of vague passages in a Code, of Common Law, of traditional usage, and of a long series of possibly conflicting police regulations.

In reference to the matter of interpretation, it is not necessary for the purposes of the present comparison to do more than point out the loose way in which the English statutes—no doubt in view of their primary sanitary objects—seem to have been designedly drawn. It has already been pointed out what dangerously conflicting interpretations have been placed on the expression “common prostitute” in consequence of the absence of any legislative definition. The fact that the policeman’s information on oath is not to be that a woman is a “common prostitute” but that he has “good cause to believe” she is one, and that the exist-

ence of "good cause to believe" and not the reality of the fact believed seem to be the "matter of the information" which alone has to be substantiated to the justices' satisfaction, further exhibits the indifference to public liberty which the whole statute (of 1866) discloses. Again, on a certificate being signed by the visiting surgeon that a woman is affected with disease, the statute (of 1866) says she may, "if she thinks fit," proceed to the certified hospital named in the certificate, but if she neglects or refuses she may be apprehended and conveyed thither with all practicable speed. Of course, if a woman may not go home to set her affairs in order before encountering, for no crime, a seclusion of perhaps nine months, a gross hardship is inflicted. On the other hand, if she may absent herself for a time disease may be conveyed in the interval. The Act leaves it wholly to the discretion of the police, and, it would appear, revels in its own uncertainty of language. All this shows that Statute Law if written as it is bound to be written, especially for a quasi-penal purpose like this, is acknowledged to be too strait for the system, and as it is written, it only conceals, while affecting to limit, the same arbitrary police discretion on which the system rests abroad.

II. One noticeable peculiarity in the English laws, as contrasted with the foreign ones, is that the English method, in its present form, is to establish a special system of police for the working of the system, under the control of the Metropolitan Police authorities and of the Admiralty and War Office, wholly distinct and apart from the ordinary local police usually engaged in preserving order and executing the law in the several districts. According to the ancient principles and inveterate usage of the English constitution, the subordinate officials charged with the preservation of order and the execution of law have always constituted an essentially local force, chosen on the spot, and

EMPLOYMENT
OF THE ME-
TROPOLITAN
POLICE.

CHAP. VI.

PRINCIPLE OF
A LOCAL
POLICE.

governed by superiors residing on the spot. Many changes have been made by recent statutes for the better constitution and administration of the police force. But, in spite of all the really valuable improvements which have been made in the direction of centralization, the lines of the old constitution have been adhered to ; and while the parish constable has almost become a mere fossil, the borough police, the City of London police, the county constabulary, constituted and governed as they all are, mark the retention of the principle that the police is an engine either too perilous or too expensive to entrust to the sole manipulation of a distant and central Executive Government. The joint principle of local police and magisterial administration is further recognised and severely guarded by the necessity which lies upon a policeman who has obtained a warrant from a justice to have it freshly endorsed or "backed," as it is called, by a justice belonging to each successive district in which it is attempted to make a seizure under it. The main exception, so far as it was one, to these principles, was the extension of the functions of the Metropolitan Police force to the Government dockyards, and this, no doubt, suggested the use of that force in the execution of the law for the licensing of prostitution in military stations and seaport towns. But in the present case the persons over whom the police control is really extended are ordinary private citizens, that is, all the women in the district—treated for this purpose as liable to fall within the police definition of a "common prostitute." The functions of the Metropolitan Police are wholly limited to the purposes described in the Acts ; that is, they may lay informations against any woman they please, charging "that they have good cause to believe the woman is a common prostitute," and they may request of any woman they please the signature of the "voluntary submission" form, and attest her signature ; they are also required to apprehend and convey to the hospital women liable to be detained there, and to bring up for

FUNCTIONS OF
METROPOLITAN
POLICE.

summary conviction before the justices all women CHAP. VI.
 either failing to attend the periodical examinations to
 which they are subject, or to conform to the hospital
 regulations whilst detained there.

It has been pointed out in a previous chapter that the police employed under these Acts have no functions whatever in respect of preventing solicitation in the streets, of preserving decency and order, of repressing juvenile prostitution, or of putting down brothels. It may happen that one and another member of the Metropolitan Police force employed does concern himself in some of these matters, or, at least, reports that it is his practice to do so when his superiors require his evidence in favour of the system. It may also happen that the fear of registration operates to repel some women from obtruding their presence on the police. But when the Metropolitan Police intervene in the above matters they are going outside the limits marked for them by statute, and are clashing with the functions of the local police. Nor can the possible absence of solicitation and of obtrusiveness on the part of the few who thereby hope to evade registration in any way make up for unrestricted solicitation on the part of unchecked numbers of the State-protected and licensed prostitutes. With respect to these, and also with respect to the brothels, the arm of the local police putting in force the common law or special local statutes is paralysed by the special police, who are thus always at work creating in their midst an army of protected prostitutes and a forest of practically licensed haunts of prostitution: The local magistracy, the mayor and corporation, have no control over the special police, though they are bound to co-operate with them in administering the system which calls for their presence; and thus a conflict between the local and central government is presented highly unfavourable to a strenuous and uniform enforcement of the general law. Nor can any improvement in the

CONFLICT OF
CENTRAL AND
LOCAL FUN-
TIONARIES.

CHAP. VI. English Acts get rid of this dangerous anomaly without still further detriment to the constitution.

SUGGESTION
OF ROYAL
COMMIS-
SIONERS.

It was suggested indeed by the Royal Commissioners of 1871 that the administration of the system be transferred from the Admiralty and the War Office to the Home Department, and that the police officers employed in the service should perform their duty in uniform. No doubt such a change would tend, as it was designed, to shield from view the special connection of the system with the health of the Army and Navy, but it would not in the least affect the vicious duality of administration now being commented upon. Another imaginable cure would be that of superseding in every district to which the system is applied the whole of the local police and the most important functions of the local magistracy, and governing every important town in the country directly from London. No one who has a glimmering knowledge of the fixity and depth, no less than the historical prestige, of the most characteristic of all English institutions—that of local government—will believe that this is a solution worth so much as a moment's attention.

OTHER
SUGGESTED
REMEDIES.

Another cure, again, would be that of simply putting the administration of the system into the hands of the local police under the control of the local magistracy. This solution is not likely to be accepted by the medical profession, as of course the vigour with which the system would be worked must then depend wholly on the accidental disposition or prejudice of the responsible authorities on the spot. In one place, the system would be a reality, and in the adjoining town it would be a sham. The places where it was least stringently worked or not worked at all would be asylums for the women who were driven from the places where it was applied with an iron hand. Morality and health would, consequently, as medical advocates of the system think, suffer in common.

It thus appears that, in England, the only possible course is the one actually adopted, the creation of a

special force under the direct and sole control of the Central Executive Government to work side by side with the local police. The result is a proportionate weakening of local authority, confusion of functions, contradiction of policy, and, as the result, a general slackening of moral obligation and oblivion of public liberty as a principle precious in itself.

This difficulty is peculiar to England. In Continental countries, in spite of the creation of special departments such as a "Sanitary Office" and a "Department of Public "Morals," and in spite of the existence of ancient municipal institutions of a type not wholly dissimilar from those in England, the police are, nevertheless, in the closest accord with one another all over the country, and, in fact, form a large and yet compact corporation, having its own traditions, its *esprit de corps*, and its own peculiar standards of right feeling and action. The very fact that the police are trusted to make for themselves and to enforce, under the control of their chief, the sort of regulations which the system of licensed prostitution supposes is, of itself, a sufficient proof that Continental police occupy a wholly different constitutional position from anything known in this country. It will be seen that not only do the regulations of the Parisian police exhibit the most complete unity of method and administration as reaching to every matter in which public decency and order in the streets, as well as the sanitary condition of prostitutes and the management of licensed houses are concerned, but very slight variations exist between the regulations in force in Paris and those in force in other towns in France, and even,—such is the unity of spirit and sentiment pervading the police all over the Continent,—between those in force in the chief towns in France and those in force in the chief towns of Belgium, Germany, Italy, and Spain. Of course this quasi-legislative and intensely concentrated character of the

CHAP. VI. foreign police affords the best possible instrumentality for promoting and supporting a system of licensed prostitution; and this system probably never could have grown to its present proportions but for such a favourable soil to nurture it. Hence, in comparing the English with the Foreign method, it is a noticeable fact of great importance that the police machinery which is absolutely needed to give even a plausible show of medical efficacy to the system is wholly agreeable to foreign precedents and habits, while in England it introduces a duality of administration wholly alien and uncongenial to English institutions, as well as attended with no inconsiderable mischief.

ENGLISH AND
FOREIGN
MODES OF
REGISTRA-
TION.

III. The next important point of comparison and contrast between the English and Foreign methods is the mode of Registration. In order to bring the English and the most characteristic Foreign modes of proceeding into view, in such a way as to facilitate the comparison, it is necessary to recur briefly to the account of registration as it has already been described in a previous chapter. But, in order to avoid verbal repetition, the following extract from M. Lecour's chief work (*"La Prostitution à Paris et à Londres, p. 120"*), giving a summary view of the Parisian practice, will place in a clear light the chief features of the Continental method everywhere :—

M. LECOUR ON
REGISTRA-
TION.

" Those women who are entered on the lists of registered prostitutes form three distinct categories :—1st. Adult women already entered on a register in the provinces, and who have come to Paris to continue the same life there. 2ndly. Adult women, or minors abandoned by the relations whose kindness they have wearied out, who, notoriously given up to prostitution, spontaneously request to be registered. 3rdly. Women who, though in precisely the same circumstances as respects habits of prostitution, resist registration without offering any guarantee to protect the

“ public health against the dangers with which they
 “ threaten it. The formality of enrolment in the
 “ register of prostitutes consists in writing in a par-
 “ ticular register the first and second names, the age,
 “ and the residence, of the woman, who is informed at
 “ the same time, of the obligations, for police or sani-
 “ tary purposes, which are thereby imposed upon her.
 “ A distinct record (*dossier*) is also kept at the office
 “ containing all the information that the police have
 “ been able to procure about the woman. On this
 “ record are entered, as they occur, all later measures
 “ of which she may be the object (arrests, punishments,
 “ and the like).” It has already been seen in a previous
 chapter that, in the case of a woman living alone
 (*isolée*), usually a card is handed to her on registration,
 containing on one side of it a list of the days and
 places of examination throughout the year, to be filled
 in by the surgeon as they from time to time take place,
 and on the other side the police regulations to which
 women are subject.

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FRENCH
PRACTICE.

In the Italian Regulations, which are of the same
 general type as the French, Article 21 runs, “ For each
 “ official registration a minute shall be drawn up,
 “ setting forth circumstantially the motives which in-
 “ duced the office to inscribe the woman on the register
 “ of prostitutes. In it, express mention shall be made
 “ that the woman has been informed of all the provi-
 “ sions of this order with which she is concerned.”
 Article 22 is, “ In the register shall be entered the
 “ name, surname, age, and country of the woman, and
 “ whether unmarried, married, or a widow ; the descrip-
 “ tion of her appearance, the name and surname of her
 “ parents, her means, profession, and habitation.”

ITALIAN
PRACTICE.

In England, as has been already fully explained,
 there is, for the districts to which the system of licensed
 prostitution applies, a register of prostitutes kept by
 the police with just as much care and particularity as
 in foreign towns, and the modes of admission to the

ENGLISH
MODE OF
REGISTRA-
TION.

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EXTERNAL
MEDICAL
ASPECTS OF
ENGLISH
ACTS.

register are, as nearly as the different political constitutions allow, identical.

It is true that in the wording of the Acts of Parliament under which the English system exists, no direct allusion is made to a "register" of prostitutes. It only appears from those Acts that by one process or another women may become "liable to a periodical surgical examination" or to imprisonment with or without hard labour if they fail to attend; and, in certain circumstances, to "detention in a certified hospital," or to like imprisonment if they fail to comply with the regulations there. In this way, as well as by the misleading title, "*Contagious Diseases Act*," the medical purposes of the law are made to absorb and distract public attention, and all the police machinery, by which alone the law can possibly be carried out, is kept, as far as possible, out of view. It is kept out of view, likewise, abroad, in one way, because there are no statutes at all on the subject; but it stands out, in broad and distinct relief, on the face of the permanent regulations by which the police action is traditionally governed; though, of course, these regulations are not, as in the case of clauses of a Statute or Code, forced upon the public eye.

AN ACTUAL
REGISTRATION
TAKES PLACE.

That an actual registration of licensed prostitutes takes place and must take place, just as much under the English method as under any foreign one, is clearly seen by looking at any Annual Report of the Metropolitan Police—say, that for 1874. Captain Harris, the Assistant Commissioner of Police, says, in clause 2 of his report, "The Acts have been fully enforced, and all women following the calling of prostitutes have been placed on the *register*, if they persisted in pursuing that course of life after being cautioned by the police." In clause 3, he says, "One thousand six hundred and fifty women have been *registered* for the first time during the year, chiefly from the unprotected dis-

"tricts; yet, notwithstanding this influx of 'new
 " 'comers' the number of common women remaining
 " on the *register* at the end of the year was forty-nine less
 " than in the preceding year." In the 9th clause he
 " says, "20,041 common women" have been registered
 " during the year, and in the 10th clause he says, "The
 " per-centages of disease amongst them has consider-
 " ably diminished, and would have been still further
 " reduced, had it not been, as I before stated, that
 " women come from unprotected districts, and insist
 " upon signing the voluntary submission form, in order
 " that their names may be placed on the *register* and
 " that by this means they may gain admission into
 " hospital." The statistical tables appended to the
 Report are drawn up with great care and show that no
 small pains are taken to obtain correct information
 as to the ages and general circumstances of each
 woman on the register, while they also disclose the
 fact that the police separate the women of the dis-
 trict under their control into distinct categories of
 which only one consists of "registered women" pro-
 perly so called. Thus, one table (page 10) contains
 a report for every district of the "number of cases in
 " which women removed from the register during the
 " year are *registered* a first, second, third, fourth, and
 " fifth time." Another table (page 14) shows the ages
 of "known common women" in each district, and the
 number for each age commencing at the age of twelve and
 terminating with that of "thirty-one and over." These
 statistics are given for the ten preceding years. There
 is a "return showing the ages of girls who had been
 " found in improper places and bad company, but who
 " before it was certain they had commenced a career of
 " vice, returned to friends, on finding they were under
 " the observation of the police employed under the
 " Acts." There is, lastly, a return showing the ages of
 girls "who had commenced immoral practices, but who

EXACT INFOR-
 MATION
 OBTAINED BY
 POLICE.

THE WOMEN
 CLASSIFIED.

CHAP. VI. "discontinued to do so on being cautioned by the
 "police employed under the Acts and who subse-
 "quently were not registered."

INSTRUCTIONS
 TO VISITING
 SURGEONS.
 REPORT OF
 COMMISSION,
 P. 839.

It appears also from what are called the "Confiden-
 tial Instructions for Visiting Surgeons" issued by the
 Admiralty (see Appendix D. to *Report of Royal Com-
 mission of 1871*, p. 839), that the visiting surgeons
 appointed under s. 6 of the Act 1866 by the Admiralty
 and Secretary of State for War are, in fact, expected
 to co-operate with the police in securing the ready and
 easy administration of the law, and to facilitate those
 inquisitorial processes which in other countries belong
 solely to the police. The first Article of these instruc-
 tions runs as follows:—"The successful working of the
 "Contagious Diseases Acts will materially depend on
 "the care, tact, and judgment with which the duties of
 "the visiting surgeon are performed, and the extent to
 "which he may succeed in obtaining the goodwill and
 "confidence of the women coming before him for exami-
 "nation; he will impress on them all that his sole desire
 "is to benefit them, and his firm determination to pro-
 "tect them from oppression, and aid them if desirous
 "to reform; and he will, on all suitable occasions,
 "specially call their attention to the ninth section of
 "the Act of 1869, which enables him to relieve them
 "from periodical examination on satisfactory evidence
 "of their having ceased to be prostitutes."

ARTICLE 1.
 ARTICLE 2. The second Article is, "The first duty of the visiting
 "surgeon will be to make such arrangements with the
 "police employed under the Acts as shall enable him
 "to carry out the law both in letter and spirit. It will
 "be desirable that he should obtain from the police
 "a carefully prepared list of prostitutes *coming within*
 "*the provisions of the Acts*, with their residences, and
 "that this list should be carefully revised at frequent
 "periods." Article 6 is, "On the first appearance of
 "every woman for examination the visiting surgeon

“ will make sufficient inquiry of herself and others into
 “ her history so as to assure himself that she is liable to
 “ the provisions of the Act, and this notwithstanding
 “ she may have previously signed the voluntary sub-
 “ mission certificate.”

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There is a most noteworthy discrepancy here between the apparent purpose of the Acts of Parliament, as gathered from their language, and the actual machinery by which they are carried into operation. On the face of the Acts, commencing with their title, their purpose is exclusively a sanitary one. As has been already said, there is not a word in them about the general registration of prostitutes, or their supervision and control, or, with the exception of the formal provision in section 12 of the Act of 1866, for the “ moral and religious instruction of the women detained “ in hospital,” about their reformation ; and still less, about any disciplinary coercion to be enforced over all women generally in the district, whether common prostitutes or not. The only way in which women are classed according to the express language of the Acts is as liable to periodical examinations or not, and their liberation is described both in the body of the Acts and in the schedules simply as “ relief from a periodical “ and medical examination.”

OUTWARD
ASPECTS OF
ACTS
SANITARY.

Notwithstanding, it appears that from a police point of view,—and this is the point of view least cognisable by the general public—the purpose of the Acts assumes wholly a different character. According to this aspect of them, the purpose of the law is first disciplinary and then sanitary, so much so, that the police hold that they are entitled to discourage women from submitting themselves to periodical examination, however dangerous a doctor might believe them to be to the public health, “ if they had only as yet commenced immoral “ practices.” It appears, by the bye, that the actual principles on which the police proceed are as uncertain

POLICE VIEW
OF THE ACTS
DISCIPLINARY.

CHAP. VI.

CAPRICIOUS
ACTION OF
THE POLICE.

and capricious as well can be, because from table 5 of the police return already cited, it appears that during the year 1874, in Devonport alone, no less than 174 girls who before they had commenced a career of vice, returned to their friends on finding they were under the observation of the police; while the next highest number is 32 in the Aldershot district, and the next is 10 in Portsmouth and Colchester. From table 6, it appears that in Devonport as many as 137 girls had commenced immoral practices, but discontinued them on being cautioned by the police, and were not registered; while the next highest number is only 10 in Aldershot. It has also been seen that the visiting surgeons are directed to share with the police the charge of the purely disciplinary part of the whole system, and, in fact, the visiting surgeon and the superintendent of police together, are expected to combine in discharging the whole of the functions of the French Chief of the office of Public Morals and his staff.

NO DISTING-
TION BETWEEN
ENGLISH AND
CONTINENTAL
REGISTRA-
TION.

The general result of this part of the inquiry is that no distinction in principle or in practice can possibly be drawn between the Continental and the English method of registering and licensing prostitutes. Though, on the face of the English Acts, it may appear that the purpose is of a narrow kind strictly limited to a sanitary end and in close analogy with other sanitary legislation, it is found, on unveiling the mechanism by which the law is, and can alone be, put in operation, that identically the same organisation exists in England as in the great towns of the Continent for making licensed prostitutes a recognized class quite apart from all other classes in the community; for placing them under the special and continuing control of the executive authority; and, in fact, for interpolating into the constitution of the country an organism wholly unknown and alien to its normal working. The language of self-congratu-

lation for philanthropic efforts with which Captain Harris's report, already quoted, is surcharged, and the benevolent activity recommended to the visiting surgeons, recall almost *verbatim* the scrupulous sense of the liberty of the subject exhibited throughout the writings of M. Lecour, and the zeal for public morality which such writers as Doctors Mireur and Jeannel are never wearied of parading. The generosity and humanity of the police may or may not be a truth, and anyway the degree in which these qualities are exhibited depends on the accidental temperament of the particular officer or on the casual view he chances to take of the nature of his responsibilities. What is unquestionably true, and is involved in the very structure of the system, is that as sharp a line is drawn between the registered and the unregistered prostitute in England as between the *fille inscrite* and the *fille insoumise* abroad; and that, whatever demoralising or enslaving results follow from the division in other countries, exactly the same must be expected to follow in this. The nature of these results have been fully investigated in the Chapter on "Registration and Provisions for Medical Control."

It has been already seen in describing the processes by which registration is effected abroad, that they resolve themselves into the two characteristic forms of *inscription volontaire*, and the "*inscription d'office*."

VOLUNTARY
REGISTRATION.

The former takes place where, as Dr. Jeannel says (p. 323), "the clandestine prostitute, pursued and tracked by the police agents comes of her own accord to claim the inscription which confers upon her the right of enrolling herself in a licensed house or frequenting houses of accommodation, or making commerce of her person at her own house without being molested, on the condition of submitting to the regulations applicable to prostitutes, and especially to the sanitary examinations." No more exact de-

DR. JEANNEL

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THE ENGLISH
"VOLUNTARY
SUBMISSION"
AND FOREIGN
"INSCRIPTION
VOLONTAIRE."

PROCESS BY
INFORMATION
AND THE
"INSCRIPTION
D'OFFICE."

scription could be given of what is called in England the "voluntary submission" process, by which the overwhelming proportion of registered prostitutes are brought upon the roll. There is just as much of what is truly "voluntary" in the one case as in the other. In both cases the process represents the final stage of a persistent hunt, and is devised as a means for facilitating the action of the police, and not for the protection of the woman. The process of the "*inscription d'office*" on the Continent, and the process by information before a justice in England, are alike in being at once the alternative to the so-called voluntary "*inscription*" or submission, and the penalty reserved by way of enforcing that. In England, indeed, the constitution demands that the judge be an ordinary magistrate, and the proceedings follow in some respects the general course of a criminal trial. But the inherent vagueness which hangs round the "matter of the information," the truth of which is alone put in issue; the burden of negative proof, in a matter so serious, cast upon the woman by a policeman's oath; and the encouragement to secrecy in the proceedings afforded by only admitting the public if the woman expressly desires it (section 37 of the Act of 1866); all remove the proceedings as far as possible from any true resemblance to the dignified, liberty-loving, unimpeachably honest, procedure which has made English criminal justice so celebrated and envied all over the world.

But just so far as these proceedings are different from the current processes of English criminal justice do they approach those known to the irresponsible and arbitrary Courts over which a Foreign Chief of the Police presides. In fact, the course of a trial as described by Dr. Jeannel (p. 327), as taking place before a *Chef du bureau des mœurs*, on a refusal by a woman to consent to registration, exactly reproduces what, by the nature of the case, must take place in the "room or place" in which an English

justice sits to inquire into the "truth of the statements contained in any information or application" under the English Acts against or by a woman. "It sometimes happens," says Dr. Jeannel, that "a woman summoned for the first time to appear on the ground of her being a clandestine prostitute, protests with energy against the assertions of the police; thereupon the Chief of the Department of Public Morals who interrogates her, can easily discover from her replies whether it is true that she possesses regular means of existence, and does not practise prostitution nor intends to give herself up to it. In such a case the manner of the accused, her self-confidence, her indignation, the despair with which she repudiates the charges of the police are sufficient evidence that these have been deceived by bad appearances, and that they have exceeded their functions." It is quite new to rely conclusively in a penal inquiry upon such evidence as this in England; though this secret criminal tribunal presided over by a single judge must go a long way to make such modes of trial familiar and acceptable.

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 DR. JEANNEL
ON PROCEED-
INGS BEFORE
THE POLICE.

It is obvious then, how in all that concerns the registration of prostitutes the English method follows so closely as even to mimic its foreign type; great ingenuity, however, being exercised to deceive the English public and to conform outwardly to the demands of the English constitution. It is the "visiting surgeon" who assumes half the functions of the police. A submission which denotes the last refuge from pressure and persecution is, by a cynical paradox, styled "voluntary." The ordinary Court of Petty Sessions is transmuted into a private police office, and a solitary presiding Justice of the Peace into the Chief of a Police Department. In England, too, as abroad, relief from the system can only be obtained through the police. In form, indeed, under the English Acts, a Justice of the Peace has the power to liberate a woman from the

 CLOSE PARAL-
LELISM OF
ENGLISH AND
FOREIGN
METHODS.

CHAP. VI. necessity of attending the periodical examinations, and so likewise has the visiting surgeon. But in the former case, it involves reference to the superintendent of police and a formal trial of the case under the conditions of secrecy (unless the woman expressly desires the contrary), already alluded to. In the latter case, the visiting surgeon can only act after reference to the superintendent of police and on his favourable report. Thus in England, wherever these Acts apply, no woman who has once publicly bound herself to the life of a prostitute can abandon that life, or, at least, the public profession of that life, unless a superintendent of police expressly consents. The same is the case abroad, and the result is seen at Paris in the statistics from M. Lecour, already quoted, to the effect that out of some 600 women who escape in one way and another from the register every year, often only one, and sometimes none, are released with the consent of the police.

ENGLISH AND
FOREIGN
ATTITUDE
TOWARDS
LICENSED
HOUSES.

IV. On the face of it, the most notable difference between the English and Foreign methods of licensing and regulating prostitution, consists in the large space which is occupied in most of the Foreign Regulations by the police measures in respect of "tolerated" or "licensed" houses for purposes of prostitution, and the almost complete absence of any outward provision for such measures in the English Acts. The odium which so deservedly attaches to houses of this description is so widespread that nothing would, probably, tend more to impart a favourable character to English methods in comparison with Foreign ones, than a well-grounded belief that the English method discouraged, while the Foreign method encouraged, the existence of these houses. For many years past the public recognition and regulation of brothels has not formed a part of the system "as it exists at Berlin." And Mr. Acton (p. 160) says in reference to this, "The advocates of public prostitution are not necessarily seeking to introduce the terrible

MR. ACTON.

"maisons de filles. We see from the example of Berlin CHAP. VI.
 "that brothels are not necessary adjuncts to the public
 "system."

It is not, however, sufficient to acquiesce in the bare WHAT THE
ABOLITION OF
BROTHELS
MEANS.
 assertion that, under a particular form of licensed prostitution "brothels are abolished," as Mr. Acton says was the case at Berlin in 1855, or that no public provisions are made for their management. It remains to be seen what the abolition or recognition means, and how far it can be anything more than nominal under a system of licensed prostitution. It may even appear that, if such a system is to exist, it is a loss rather than a gain to withdraw brothels from the special interference and vigilance of the police. Of course the temptation to abstain, where at all possible, from making formal regulations with respect to brothels is very strong, because it is just the part of the system which, from the precise organization it calls for, necessarily is the first to arrest the public eye and shock the public conscience, and illustrates in the most palpable form the essential immorality of the system of which it is an inevitable outgrowth. It is thus not surprising that in Berlin, and quite lately, throughout Germany, where the system has throughout encountered the most serious obstacles on moral grounds, and has, even up to the present moment, had a hard struggle to maintain its hold, the formal recognition of brothels has been the first sacrifice made to the opponents. The same has been the case in England. No formal recognition of brothels appears on the face of the English laws, and it is no doubt largely on this ground that some persons believe the English method of licensing prostitution to contrast most favourably with the French, Belgian, and Italian methods.

It has already been seen in the Chapter on "Licensed EVIDENCE ON
BROTHELS IN
ENGLAND.
 "Houses" that, so far as the evidence produced before the Royal Commission of 1871 by the supporters and administrators of the English Acts goes, the keepers of

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brothels are on good terms with the police engaged in executing the Acts; they freely co-operate with the police in bringing the women up to examination; they facilitate all enquiries and searches made by the police; they find the hospitals convenient for freeing them from disabled women who would otherwise be idle on their hands; and they only find fault with the system when it operates so as to deprive them of women who are not so far disabled as to be unable to cling to their trade. If it is said this evidence is partial and relates only to a limited period when the system has hardly taken root, it must be asked, how the results could be otherwise.

HOW A PRACTICAL LICENCE IS BROUGHT ABOUT IN ENGLAND.

It was pointed out at considerable length in the chapter devoted to this part of the subject, that whether a particular lodging-house to which prostitutes betake themselves in numbers of more than one or two shall be designated a "brothel" must depend jointly on the police and the judge of the court of summary jurisdiction, whether a police court, court of petty sessions, or a tribunal of a *juge de paix*, and most frequently, on the police alone. Thus, it is inevitable that the keeper of a lodging-house will learn how to keep his establishment out of the illegal category by cherishing amicable relations with the police, and readily complying with any directions they expressly or by implication lay down. These directions, though, perhaps, at first various and fluctuating, gradually are formulated into a well-known and uniform code. They are neither less nor more than the regulations obtruded before the eyes of the public in the French, Belgian, and Italian varieties of the system. In some respects they are likely to be more noxious than those regulations because, inasmuch as their validity rests on an illicit and covert understanding between the police and the brothel keepers, there is a less effectual security for the protection of the unhappy inmates, or for the even and impartial execution of the law when it is against the keepers as well as when it happens to be in their

favour. It may seriously be doubted whether, when all the moral scruples are overcome which forbid the licensing system altogether, there is any gain to public liberty or to morality in not going the full length of the Parisian system, and, all hypocrisy being given up, bringing under public legal control persons whom it is the acknowledged policy of the law to recognize and therefore to encourage.

With respect to brothels, there is no third course between the policy of consistently and absolutely discouraging them, and encouraging and fostering them. Up to the time of the passing of the English Acts, it was (as was previously shown) the unequivocal policy of English law to treat all houses resorted to by women for purposes of prostitution as outside the protection of the law and liable to be suppressed by measures familiar to the ordinary criminal law. This policy was fully supported and made more effectual by general and local Acts of Parliament. Under the common law and under these Acts a policeman knew a brothel only to suppress it, though it might be deemed expedient at particular times and places only to suppress the worst, or, at any rate, to commence with these. When these Acts were passed two distinct and conflicting duties were cast on the police; one, that of suppressing all brothels; the other, that of suppressing only those the keepers of which place obstacles in the way of certain sanitary measures, and, to a proportionate extent, of encouraging and protecting all the rest. This result is, of course, only one of the many moral anomalies and confusions which the whole system of licensed prostitution involves, though it is one of the most glaring when it is fully explained.

Certainly, the English variety of the system can claim no credit whatever for severity towards brothel keepers which is not equally due to the most confessedly flagitious varieties of the system

NO THIRD
COURSE
BETWEEN EN-
COURAGEMENT
AND DISCOUR-
AGEMENT.

CHAP. VI. abroad. There is, indeed, in the Act of 1866 one ominous clause (the 36th) which, to the discerning eye familiar with the language of statutes, seems intended directly to countenance not only brothels but an internal police organisation of brothels so long as the sanitary provisions of the Act are complied with; and none the less so because a proviso affects to keep in force all the penalties to which the keepers of brothels are liable. This clause visits with a penalty of a twenty pounds fine or, at the discretion of the justices, of imprisonment with or without hard labour for any term up to six months the "owner or occupier of any house, "room, or place within the limits of any place to which "the Act applies, or being a manager or assistant in the "management thereof, having reasonable cause to "believe any woman to be a common prostitute *and to "be affected with a contagious disease* induces or suffers "her to resort to or be in that house, room, or place for "the purpose of prostitution." The words in italics point to what is the real and only gist of the offence.

CERTIFIED
HOSPITALS IN
ENGLAND.

V. It is probable there are some persons who from a superficial acquaintance with the foreign aspects of the system, and only a cursory study of the English Acts, look on the certified hospitals in England as the redeeming feature, if not the plenary justification, of the system in its English garb. They would point especially to the 12th section of the Act of 1866 (introduced by the way, in the House of Commons as a last counter-active effort, at the instance of an opponent of the whole system) which runs as follows: "A hospital shall not be "certified under this Act unless at the time of the grant- "ing of a certificate adequate provision is made for the "moral and religious instruction of the woman de- "tained therein under the Act: and if at any subse- "quent time it appears to the Admiralty or the Secre- "tary of State for War that in any such hospital

“adequate provision for that purpose is not made, the
“certificate of the hospital shall be withdrawn.”

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Now, so far as it is intended to suggest a comparison in favour of the English method as against the French, it may be noticed that provision for religious instruction is no peculiarity of the English system; indeed, it is probable that an adequate provision for moral and religious instruction enforced by Act of Parliament can by no means vie in efficiency with the highly organised religious agencies spontaneously and richly supplied in Catholic countries. Thus, Mr. Acton says (p. 114),
“that the infirmary department of the St. Lazare Hospital at Paris (which corresponds to a certified hospital in this country) is under the direction of two physicians, two house surgeons, an apothecary, twenty-two wardswomen, and eight sisters of charity of the order of Marie Joseph. The patients are very carefully classed with a view to the separation of the old from the young, and the hardened from those whose reclamation is not hopeless.” In the case of the Lourcine Hospital again, which is a “free receptacle for unregistered syphilitic females,” the service includes twelve Sisters of Charity of the order of *La Compassion*.

RELIGIOUS
INSTRUCTION
IN FRENCH
HOSPITALS.

MR. ACTON ON
THE ST.
LAZARE HOS-
PITAL.

THE LOURCINE
HOSPITAL.

Nevertheless, though no exclusive merit can be claimed for the English hospitals in respect of moral and religious instruction, and the value of two contradictory courses of lessons, proceeding, on the one hand, from the surgeon who enlarges on “prophylactic” precautions, and, on the other, from the chaplain who preaches on repentance, is, at least, open to question, it may be worth while to listen to the evidence of a hospital chaplain as he produced it before the Royal Commission of 1871. Of course this testimony is only cited here by way of pointing to what is possible, not to say probable, and not in order to enforce a final conclusion. The Rev. John Hawker, Chaplain to the

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THE REV.
JOHN
HAWKER'S
EVIDENCE.

Royal Albert Hospital for a year and eleven months, said (A. 7673-4) "That his duties were those of endeavouring to reclaim fallen women of the Lock wards, and performing Divine service in periodical order. 1700 cases had passed through his hands." On being asked (Q. 7412) "Do you consider these Acts have an immoral tendency?" He replied, "Yes, in encouraging prostitution." (Q. 7413) "In what way should you say they encouraged prostitution?" "If a young woman is in a state of poverty she hears that at the hospital they are very well cared for, kindly treated, and that they get a good living by going on the streets; such cases are not by any means few." (Q. 7492) "Now, we have been informed by Inspector Anniss that of those 1500 women [taken off the register for various causes] 90 per cent. have been absolutely reformed. I want to know whether your judgment corresponds with that?" "Quite the contrary; I should think if he had said 10 per cent. it would have been nearer the mark." (Q. 7580) "Your feeling is that these Acts have not diminished clandestine prostitution?" "No, they have not." (Q. 7581) "But have increased it in that district?" "Yes."

It has already been pointed out in the chapter on hospitals, that constituted as certified hospitals are, and holding the place they do in a system of licensed prostitution, they must necessarily become simply a premium on the public profession of prostitution, and an aggravation of the evils inherent in the system. There is nothing whatever in the English certified hospitals to give them the minutest advantage in these respects over hospitals abroad.

RESULTS OF
COMPARISON.

From the above comparison of the English and foreign variety of the system of licensed prostitution the following conclusions result. Firstly (1) according

to the English method, both in the title of the statutes and in the substance of their provisions the sanitary object is made to exclude every other real or possible object, the consequence being that the whole subject is relegated to the attention of those who are supposed to be specially interested in sanitary science. On the Continent, the furthering of the sanitary object is combined with that of other objects, and the whole system, when once perceived and understood, seems to assume more alarming proportions. This combination of objects, moral (or immoral), political and sanitary, is just as real according to the English method as according to the foreign one; though owing to the accidental division of the police machinery by which, in England, the different objects are sought to be obtained, some of the objects are kept entirely out of public view, others are only involved by implication, others are only waiting a favourable opportunity to find more effectual exposition and more direct means for their attainment.

Secondly (2), whereas the English Constitution of itself opposes peculiar barriers to the introduction of a system which entirely depends for its success on the extent of the arbitrary powers conceded to the police, these English laws on the other hand betray a conscious struggle with the best established principles of that Constitution. As the nature of this conflict becomes better ascertained, it must be expected that judicial decisions and declaratory legislation will support the genuine principles of the Constitution rather than those laws, which, either by their express provisions or their accidental or intentional vagueness, are out of harmony with it. Thus, unless the system of licensed prostitution in this country gets the better of the Constitution, the system must become in time so far weakened and paralysed as to lose all the energy which is an indispensable condition of any seeming success. On

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(1) SANITARY
OBJECT PARA-
MOUNT.(2) ENGLISH
CONSTITUTION
AVERSE TO
THE SYSTEM.

CHAP. VI. the Continent, on the other hand, there is nothing in the current notions or political institutions which treats police agency as inherently fraught with dangers to public liberty, as needing the severest legal circumscription, and as amenable at every moment to the jurisdiction of courts of justice. Even in countries where, as in Switzerland and Belgium, abstract constitutional liberty is most prized, and political institutions are based upon a recognition of its claims, the functions of the police are in the highest degree indeterminate, and even their legislative power, within certain limits, very considerable. Thus, in such countries, all the machinery is at hand for the untrammelled application of the system of licensed prostitution, and, consequently, if that system could be effective anywhere it would be effective there. If it be alleged that the system has any efficiency in other countries than England, the price at which such efficiency is procured must not be left out of account.

(3) AN EFFECTIVE REGISTRATION TAKES PLACE.

Thirdly (3), in the English written law on the subject, the expression "registration" or "inscription" is carefully avoided and "liability to periodical examination" substituted, in order, no doubt, to convey the idea.⁴ prostitutes are momentarily grouped as a class for a single medical purpose only and all other notoriously evil consequences of registration and the construction of a prostitute class are thereby avoided. But it is found on going an inch below the surface, and even reading the reports of the police furnished to Parliament, that the class of common prostitutes "made liable to periodical examination" is for all purposes, whether moral or immoral, as sharply marked out by the police, and, consequently, by the women themselves and by the public around, as is the class of *filles inscrites* as distinguished from the *insoumises* in other countries. The metropolitan police distinguish prostitutes into those who are "registered" and those

who are not, and record with the same minuteness as the Parisian police the circumstances under which each woman was admitted on the register and those under which she was dismissed from it. The modes of admission to the register are as nearly alike in this country and abroad as the varying political constitutions admit, and the English Constitution is strained to its utmost, if not seriously infringed, by the effort to follow the foreign example. The so-called "voluntary" submission is as much and as little voluntary as the *inscription volontaire* in Paris and the registration which takes place by information laid before a justice of the peace is as little resorted to as, and recalls in all its particulars the oppressive features of, the *inscription d'office*, which even M. Lecour flinches from as a *mesure grave, delicate, pleine de responsabilités et d'écueils* (*De l'Etat Actuel*, see p. 47). Thus, so far as the fact of organising a class of prostitutes, and the modes by which it is effected, goes, there is nothing to choose between the English and the foreign system. Nor is there anything to chose between them in respect of the mode by which a woman escapes from the class. It has been abundantly proved that in England, as in all other countries, her release is made to require the assent of the police, though impediments to that release may come from other quarters as well. If in any of these respects the British Constitution at present secures some slight advantage to English women falling under the system, such an advatage is felt to be, what it is, so far a drawback on the sanitary efficiency of the system, and it must be the constant aim of its promoters to reduce and exclude it.

Fourthly (4), though in respect of the generally confessed iniquity of licensed houses of prostitution, the English statutes nearly succeed in evading all allusion to the subject, yet it may well be doubted whether the implied recognition accorded to the owners of brothels who approve themselves to the police is not more

CHAP. VI.

MODES OF
REGISTRATION
THE SAME
EVERYWHERE.

(4) POLICY IN
RESPECT TO
BROTHELS THE
SAME EVERY-
WHERE.

CHAP. VI. dangerous to public liberty and morality than the express and carefully drawn regulations applied to such houses abroad. It has been shown that such an implied recognition is an obvious consequence of the registration and the periodical examinations of prostitutes; that such a recognition is wholly opposed to the well established doctrines of the older English law; and that, so far as the short experience of the system went at the time of the Royal Commission of 1871, the evidence of the most trustworthy witnesses in Government employ proved that the owners of brothels were in favour of the licensing system, were on friendly terms with the police, co-operated with the police in applying the system, and only remonstrated when women in the first stage of disease were (as they thought) prematurely withdrawn from their clutches. If under the English system, all the horrible slavery, brutal immorality, and wide-spread dislocation of the moral sense which "tolerated houses" invariably enshroud and engender has not yet been brought about, there is nothing in the English statutes to prevent it, and, for the first time in the history of English legislation, there is everything to facilitate it.

(5) OPERATION
OF CERTIFIED
HOSPITALS
THE SAME
EVERYWHERE.

Fifthly (5). The general provision for hospital treatment is identically the same in England and in other countries. In England the hospitals are freely open to registered prostitutes only. All women classed as registered prostitutes are liable to compulsory detention in hospital if believed to be diseased. The hospitals are, —so far as these women are concerned,—managed by a strict and, practically, arbitrary body of regulations, disobedience to which is treated and punished as a penal offence. In fact, while it is the policy of the system as a sanitary device to make the class of registered women as comprehensive as possible, so that it shall include all women verging on a life of prostitution as well as all who have already betaken them-

selves to it, it is likewise the policy to convert the hospitals to which these women are sent into penal institutions managed by prison rules and discipline. In every one of these respects,—as disastrous to the general popularity and diffusion of hospital treatment as to morality and liberty,—no distinction whatever can be drawn between the practice pursued in the Royal Albert Hospital at Devonport and that in the St. Lazare Infirmary at Paris, between the Lock Hospital at Portsmouth and the *Hôpital de la Conception* at Marseilles. It has already been pointed out that, so far as any affected moral or religious instruction goes, the provision made in Continental hospitals is notoriously far more affluent and pliable than the parsimonious and formal services secured by the hard words of a clause in an English Act of Parliament.

The general result of this comparison is that whatever difference exists between the system of licensed prostitution as it is found in England and in other countries is apparent and not real; or where real, is due to causes—such as the sturdy resistance of the British Constitution—which must be gradually opposed and weakened, if the system is, in the eyes of its advocates, to have even a show of sanitary success. The superior elaboration and complexity of the foreign methods are due to nothing else than to longer official experience, well-established acquiescence or persistent apathy on the part of the public, and the legislative capacity and instinct of foreign police agents. If the system takes root in England or the United States and public suspicion is finally lulled to rest, there is nothing to hinder that system from becoming as finely articulated in all its ramifications, and society becoming as deeply saturated with its spirit as is the case in Continental countries.

CHAPTER VII.

FUNCTIONS AND DUTIES OF THE STATE.

CHAP. VII. IN the previous chapter the system of licensed prostitution in all its aspects and in its detailed administration has been carefully surveyed, and the extent of the alleged difference between the English and Continental species of it has been rigorously examined. It remains now to criticise the political theory which alone could justify resort to such a system,—supposing it to be otherwise recommended by well-grounded sanitary considerations. It will then become possible to indicate the true lines on which the evils proposed to be remedied can alone be wisely and safely approached.

ATTITUDE OF
WRITERS ON
POLITICAL
ASPECTS OF
THE QUESTION.

There is hardly a writer on the subject, either in this country or abroad, however enamoured he may be with the system, who does not betray a certain amount of hesitation or diffidence, not to say shame, when he attempts to set out his political and social theory with any degree of completeness. He is reduced to avail himself of apologies and counter statements, and exhibits a wild recklessness in closing with any remedy within reach, whatever its ulterior consequences, which no rational politician would have the hardihood to exhibit in respect of any other topic of legislation. He is stricken from the first with the enfeebling consciousness that he cannot reason the matter out without landing in conclusions which are fatal to all hope of moral and political improvement, and therefore he does not reason at all, or reasons badly in the desperate hope

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MR. ACTON'S
APOLOGY FOR
THE SYSTEM.

that the readers whom he is addressing will not find him out. Thus, in the following passage from Mr. Acton's work (p. 160) it is quite impossible to say whether he thinks the system of licensed prostitution on the whole morally justifiable or not, or whether supposing it is not morally justifiable, whether he still wishes it to be adopted. Mr. Acton says :

"To create and maintain a class of harlots for the benefit of the public health is, doubtless, repugnant to English feelings, and to preserve decency by licensing vice seems to us an intolerable outrage on religion. Such a system appears better suited to heathen times, and to grate harshly on Christian civilization ; it has, however, at least the merit of being logical, and is, apart from its cruelty, in accordance with common sense. It sees an evil, and, therefore, seeks a remedy—a dire disease, and, therefore, withstands its progress and limits its sphere of action—a vice incurable, irrepressible, and, therefore, seeks to regulate ; unfortunately the method adopted has, at least, the appearance of sanctioning vice, and undoubtedly tends to harden the heart and to blunt the conscience. While remembering the injury it inflicts on individuals, we cannot but admire the benefits that it bestows on the public, and, from a material point of view, on its victims."

The following passage from Dr. Jeannel's work, so often cited before, is even still more explicit in the admission that the system is, from first to last, too grossly and palpably immoral to bear being translated into the language of written law, and therefore, if it is to exist at all, must be relegated to the obscure officers and tribunals of the police. Dr. Jeannel says (p. 302) :

"Strict logic would demand that the toleration [of prostitution] once recognised as inevitable, should be clearly enounced by a written law which should, at the same time time, define the greater and lesser

DR. JEANNEL
ON LEGISLA-
TION.

CHAP. VII. "breaches of it, assign the penalties, ascertain the
"principles for judicial decisions upon it and direct the
"magistrate and the police when and how to interpose.
"But such a law, by the very fact that it would have
"marked the cases in which prostitution must be re-
"pressed, would have necessarily admitted that there
"were cases in which, infamous as it is, it was not
"illegal; such a law, surrounded though it might be
"by limitations on its mode of execution, must have
"elevated the commerce in a woman's person—against
"which the conscience of mankind revolts, and which
"religion anathematises—into a regular profession, and
"so, in one word, would have created a legal right to
"engage in prostitution. Prostitutes and pandars who
"complied with the regulations of such a law would
"have lived in orderly security under the same ægis
"of the State as all other citizens; and, consequently,
"in proportion to their obedience, would they have
"been protected with a view to the discharge of their
"social functions. This is what no legislators have yet
"had the courage to look in the face without an invin-
"cible repugnance so often as they have approached
"the question of prostitution, and have set themselves
"to filling up what administrators call, with some
"show of reason, a gap in our codes. It is on this
"account that the prefects of police have been left to
"themselves in spite of their desire to be guided and
"supported by law in a matter which touches one of
"their most grave and delicate responsibilities; that is,
"the inevitable toleration, coupled with the necessary
"repression, of prostitution."

This is a logical, and, indeed, honest exhibition of the real state of the case, and, at least, evinces perfect clearness of thought. What ambiguity or perplexity there is attaches to the attempt, here portrayed, at once to be moral and just in making the laws which people read and openly discuss, and to be indifferent to morality

and justice when according powers to the police to make regulations which people do not read. The following short extract from the Report of the English Royal Commissioners of 1871, and which probably expresses the view of no single one of the Commissioners, shows neither clearness of thought nor purity of moral instinct nor decision of purpose. On this ground it is a fair and average exponent of the confusion of mind into which all the supporters of licensed prostitution fall when once they attempt to find a basis for their system in political reasoning. The Commissioners say (s. 48): "But even granting that the regular attendance before a surgeon is a vital part of the system, it becomes a grave question whether the system could be maintained in the face of objections which, on moral grounds, have been raised against it. Prostitution may be said to be tolerated by the law, because it is not an offence punished by the law; but toleration is a negative quality, and the bound of toleration is overstepped when the law interferes to place prostitutes under regulation with the avowed object of protecting those who consort with them from the dangerous consequences to which illicit commerce is liable. Thus, it is said prostitution is indirectly, if not directly, recognised as a necessity. On the other hand, it is contended that by placing prostitution under regulations it is not recognized as a necessity, but the fact of its existence only is recognized. It is difficult, however, to escape from the inference that the State, in making provision for alleviating its evils, has assumed that prostitution is a necessity."

There can be no doubt on reading these feeble and vacillating utterances that, in treating of the responsibility of the State in respect of prostitution, writers are guilty either of confusion of thought, or of dishonesty of purpose, or of both. They deservy what, to their minds, seems a possible mode of mitigating an admitted

CHAP. VII.

THE ENGLISH
ROYAL COM-
MISSIONERS ON
THE FUNC-
TIONS OF
LEGISLATION.

CHAP. VII. evil and they then cast about for some justification of it in moral and political theory. Where the dominant political theory to which they are compelled to do homage is unaccommodating, they resort to all sorts of shifts by help of which either to escape from its logical consequences or to cloak the real character of the action they recommend. Indeed they do both at once, by first making a laboured apology to the effect, that, provided some impression seems likely to be made on disease, it is of no consequence whether Law and the State impart, in appearance or in fact, a direct encouragement to vice; and by then going on to argue that to spend public money in a way which overtly secures beforehand that vice shall be indulged with the utmost attainable facility is in no respect encouraging vice, but only recognising its inevitable existence and few of its results.

The subject of the alleged "necessity" of vice has already been fully discussed in the opening chapter of this work, and it was seen that there is just as much, and just as little, moral apology for claiming exceptional and anomalous legislation on account of the alleged necessity of sexual vice, as there is for claiming it on account of deep-rooted national habits of drunkenness and of cruelty in all its shapes. If the difficulty of surmounting these habits by legislation only were held a reason for unprincipled legislation, all hope of applying the doctrines of morality and the methods of logic to the realm of politics must henceforward be given up. Political action must be controlled by nothing else than accident, caprice, party ascendancy, and roughly balanced probability of immediate material advantage. It has not yet come to this either in England or in the other progressive countries of the world, and the proof of it is evinced in the laborious and strained efforts made by all the writers on the general subject and by every Parliamentary debater to find a moral

and logical justification for the licensing system in a sound political theory. With what success this has been done may already be divined, but it will appear more clearly from the following investigation into the nature and limits of the responsibility of the State as applicable to the subject under consideration.

CHAP. VII.

A difficulty is encountered on the very threshold of the enquiry as to the conflicting claims of what may be called a purely "abstract" and a prudential or utilitarian view of the State and its policy. Though, of course, pages might be written, and have been written on this topic, yet the practical results of the enquiry may be enclosed in a very narrow compass, and are tolerably well admitted on all sides by the statesmen of Europe and of the United States. Those who ponder the most deeply or talk the most loudly on the abstract conception and duties of the State none the less admit that it is in observation and experience, and not in *a priori* guesses, that the true field for wise State action in respect of any particular matter is to be determined; and that, although the more universal and permanent aspects of the State suffice indeed to mark out the general limits of its action and the direction of its duties, yet these, in themselves, are wholly insufficient to discover the time, the place, the amount, the detailed contrivance, of such legislation, as may be needed from moment to moment in the life of the State. On the other hand, the most rigorous utilitarian justly resents the imputation that the practice of carefully weighing against each other incompatible and conflicting advantages in respect of their quality, their intensity, their preciousness, the length of their duration, and their distribution, in no way excludes the need for paying due deference to the paramount claims of such strictly utilitarian principles as are established by the widest of all inductions, and are expressed in such time-worn words as Justice, Truth, Honour and Purity.

ABSTRACT AND
UTILITARIAN
VIEWS OF THE
STATE.

CHAP. VII.

LIMITS TO
STATE ACTION.

Thus, the most exact representatives of the two widely opposed schools of moral and political thought may be said to agree that there are limits to State action of a more or less indeterminate, but real and highly significant, kind which the State cannot overstep without, in the language of one school, deeply offending against the dictates of the common and educated human conscience, or, in the language of the other, committing a scandalous outrage on the most obvious and commanding sort of utility. Both schools are agreed that the limits to State action are marked on some sides, at least, by the necessity of the State being "just and true in all its dealings," of giving an unfaltering support to the cardinal institutions of society, such as Marriage and Family Life, and of uniformly discountenancing, even when incapable of penally repressing, all anti-social instincts and practices. It need not be said that the largest variety of individual opinion exists in all schools as to what are the "cardinal institutions of society," and what is their true or best framework; also what are all the anti-social instincts and practices which ought to be legally discountenanced; and what are the only justifiable grounds of interfering with individual liberty. But these varieties of speculative thought, interesting and important as they are, do not affect the broad and common maxims which are current in public opinion and the professed legislative action of every State of the civilised world. Bearing in mind, then, the necessary interaction, at every point, of abstract maxims of policy and of conclusions drawn from a critical use of recorded experience, the following principles of State action must be held to be such as to command very general, if not universal, acceptance.

I. POLICY MUST
BE UNAMBIGUOUS.

I. The general policy of the State, as finally expressed in its laws and administrative action, must be clear and unambiguous. Of course this is important enough for all legislative purposes whatsoever, and is always recog-

nised as one essential condition of good legislation and government. But where the subject-matter touches on a directly moral topic, and the purity and correctness of the moral sentiments of the whole people are involved in distinctness of utterance, the need for plainness of speech cannot be too strongly insisted on. Obscure laws, inconsistent laws, ambiguous laws, are here not merely impediments to free public action and to the easy administration of justice, they are grave moral misdeeds. If the law is knowingly allowed to incline, on the whole, in favour of an immoral sentiment, or if such an interpretation of it is allowed to be so much as possible, it is one of the most heinous of moral offences of which a State or its rulers can be guilty. The general moral sentiments of a people are dependent upon a vast variety of subtle and incalculable influences; their religion, their traditional customs and institutions, their social habits, their historical antecedents, the amount and character of their intercourse with foreigners, the dominant speculative theories, and the prevalent educational enterprises, all combine to create and enforce the moral sentiments of the hour; while these sentiments themselves react powerfully upon all those influences. But, no one of these influences is so omnipresent, so enduring, so persuasive, so directly authoritative, as the voice of the State uttered either in its laws or in its administrative acts. These laws and acts speak with a deliberateness of purpose and a magniloquence of style which, while they compel the attention of all, powerfully impress the imagination in a way no other private or public utterance can. Of course most people do not read or study the law, till it is brought close to them; but on this account there is all the more need that the part of the law which they do chance to study should fairly represent the spirit of the whole; and, therefore, that the whole law, each part of which will be studied by some, should be unimpeachable and harmonious. If

EDUCATIONAL
INFLUENCE OF
LAWS.

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then it be true that it is upon the sublimity, the simplicity, and the tenacity, of the moral sentiments of a people that the fortunes of the State depend, and that these sentiments are sound and pure according as the Law is clear and stainless, how can a body of Law, which formally and openly recognises, protects, licenses, regulates, and facilitates, prostitution, be exempt from the grave charge of weakening and confounding the moral sentiment of the whole people, and so conducing to the worst national misfortunes? A struggle will no doubt, for a time, ensue between the lessons of the legislator and the lessons of every other moral and religious teacher in the land. But these last will be desultory, varying in form, and implicated in matters of dubious importance. The lessons of the legislator will be constant and uniform, only gaining force by time and custom, and will finally dominate over every rival. The final doom is written in the words, that organised fornication has become as cherished an institution of the State as lawful marriage.

VARIOUS
THEORIES AS
TO DIRECT
ENFORCEMENT
OF MORALITY.

Of course, it is a truism to assert that the legal duties of persons are very seldom co-extensive with their moral duties, and that the State can go a very little way indeed in directly promoting the morality and virtue of its citizens. How far it can wisely attempt to go is a matter upon which the ablest thinkers and practical statesmen are by no means at one. Some would reduce the State to nothing more than a mechanism for preserving the external order and securing individual liberty, leaving the modes of wisely using this liberty to the unfettered choice of the private persons concerned. Others, again, would extend the field of State action, not only to every branch of co-operation for purposes of material improvement, but to the lower and higher education, to science, art, and even to religion. Others, again, would extend the area of State interference indefinitely in some direc-

tions, and would restrict it as severely in others. All sides confess that the regions of law and morality are not, and cannot be made, conterminous.

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It is also obvious enough that laws and political institutions often combine to support practices long after the moral sentiment of the people has generally condemned them. Law never keeps exact pace with progressing moral sentiments, and the law of one age generally consecrates much of what was held sacred in a former age, but is now repudiated. Thus the laws protecting and regulating gambling-houses and public lotteries have in Continental countries only quite lately been abolished, though the moral sentiment which condemns such institutions had been long formulated in the better part of society. It may happen, indeed, in countries in which the representative mode of government is only inadequately developed that the law is made by persons far in advance of the general community, and so reflects moral sentiments scarcely as yet fully come to maturity anywhere.

All this is as obvious as it possibly could be, and yet the existence of laws licensing and regulating prostitution does not find the slightest justification thereby. Professor Hornung, of Geneva, in his essay on "*Prostitution in Genève from the Judicial point of view*," (read before the "Society of Public Utility," in 1873, and which led to the abrogation, in the Geneva Penal Code of 1874, of the law of 1817 by which the arbitrary imprisonment of prostitutes by the police was sanctioned) appeals to those who in the name of public liberty protested against the compulsory observance of Sunday, though this observance was, on the face of it, entirely in favour of those who might otherwise be made, or induced, to work on that day. Professor Hornung says, "But as to the imprisonment of prostitutes and their detention by a mere administrative process, which constitutes so formidable an exception to the common law, people

PROFESSOR
HORNUNG ON
THE IMPRISON-
MENT OF
PROSTITUTES.

CHAP. VII. "accept it without so much as a word. People will
 PROFESSOR "not stand the tutelage of the State in the interest
 HORNUNG ON "of morality, order, and the public health ; yet they put
 ARBITRARY "up with it in the interests of profligacy, and that under
 IMPRISONMENT "a form the most to be condemned. There is here
 BY POLICE. "a defect in logic truly incomprehensible. Can it be
 "that prostitutes are not persons worthy of the concern
 "of society (*des personnes intéressantes*)? Any way,
 "there is a flagrant contradiction, and it is time that
 "the great opponents of State tutelage when it profits
 "the weak should come to be in accord with themselves
 "by joining us in calling for the suppression of that
 "same tutelage when it profits the vicious. But we
 "go so far as to say that the State ought to leave vice
 "to itself with all its consequences and its plenary
 "responsibilities. The police ought not to make terms
 "with evil by organizing prostitution. Only, when it
 "is left to itself, every public outrage on modesty
 "ought to be severely punished, and, in general, a
 "strict hand applied to the execution of the law in the
 "interests of public morals."

REAL NATURE
 OF THE
 POLITICAL
 OBJECTIONS.

This passage puts, clearly enough, the real complaint against the laws under consideration so far as their outward character goes. It is not that they fail to enforce the obligations of the highest morality, for no law can achieve this end. The wisest laws seldom even directly attempt it. It is not that they support practices and institutions which have only lately come to be condemned, while they were previously in repute, and even still are recognised as good and useful among important classes of society. This is true of many laws in all countries and, in their turn, is likely to be true of all laws. The complaint is that, in the case of a vice, which is condemned without scruple or qualification by the whole reputable portion of the nation, and which the plain language of the law and the State has hitherto unequivocally denounced, a class of laws are introduced which are wholly counter to the spirit

of all previous laws, and the obvious purpose of which is to remove hindrances from, and provide every kind of facilities for, the indulgence of vice. If this is not the purpose of the law, it is a sufficient condemnation of it that it needs, as has been already seen, lengthy and tortuous comments to remove the plain and natural impression which the language of the law, and the prominence of all the various institutions it calls into being, must inevitably, and does notoriously, convey to the uninstructed or unsophisticated citizen. It is as bad from many points of view that a law should seem to ninety-nine persons out of a hundred to be designed to favour immorality, as that it should, in fact, favour it.

It is to be observed, in connection with this part of the subject that, for the future, and especially in such countries as England and the United States, if this system of licensed prostitution is to exist at all, it must be publicly legalised by national law and cannot be suffered to crouch away out of sight in the mysterious recesses of irresponsible police regulations. In Continental countries public attention is now being awakened to the whole subject as never before, and the system must either justify itself in view of its inherent reasonableness and justice or must be abandoned. It must stand the most searching investigation and discussion which can be given to it by representative legislative bodies, or it must entirely collapse. If it stands the test, it must, of course, be amended, enlarged, and translated into the language of national law. It is for this, indeed, that the chief writers and speakers at International Medical Congresses are eagerly longing; and as there is no reason to suppose their belief in the system of licensed prostitution is feigned, they are bound to long for its utmost extension. How far, by the way, a skilful physician is

CHAP. VII.

BURKE ON THE
DISQUALI-
FICATION OF
SPECIALISTS
FOR POLITICS.

any more likely, on the ground of his medical attainments, than the most inexpert private citizen to be a wise legislator may well be doubted. There is nothing indeed, which philanthropic doctors like better to concern themselves with than projected legislation, and they have a more honourable excuse than can be extended to the pious clergymen who engage in rash commercial investments. The words of Burke (*Reflections on the French Revolution*, edit. 1852, vol. iv., p. 637) are apposite in this respect. "Their very excellence in their peculiar functions may be far from a qualification for others. It cannot escape observation that when men are too much confined to professional and faculty habits, and, as it were, inveterate in the recurrent employment of that narrow circle, they are rather disabled than qualified for whatever depends on the knowledge of mankind, on experience in mixed affairs, on a comprehensive, connected, view of the various, complicated, external, and internal interests which go to the formation of that multifarious thing called a State."

II. DANGER
OF PERMANENT
LEGISLATION
FOR TRANSI-
TORY EVILS.

II. Another principle of legislation which needs but to be stated to command general assent is that for the purpose of grappling with a mixed moral and physical evil, it is unwise to call into being a complex mass of special concrete institutions which, by the manifold private interests they create, by the habits and modes of thought they familiarise and diffuse, and by their inherent fixity and inelasticity, give an artificial longevity to the evil itself long beyond the time when the general circumstances around are concurrently tending to make it insignificantly small. It is, no doubt, true that every law which constructs machinery for encountering a special and temporary evil is open to objection on this ground. The evil tends to vanish. The law keeps up the memory of it; and the execution of the law often supplies occupation to officials and to

other persons who are thereby interested in unnaturally prolonging the existence of the evil. The difficulty is inevitable, and is due to the unequal rate of progress of legislation and of moral sentiments or habits. A sense of this difficulty supplies a caution to legislators whenever they are devising measures for reducing the consequences of evils which, in the nature of things, are constantly in course of diminution, and may one day entirely disappear. CHAP. VII.

But in the class of legislation now being reviewed, this inherent difficulty is voluntarily aggravated to the greatest possible extent. Prostitution and fornication must, even under the most desponding views of the future of society, be looked upon as constantly diminishing evils. That is to say, they must be regarded as likely to diminish at exactly the same rate as all the manifold causes of them against which it is the constant aim of society and of the State to contend diminish. Even those who delight most in speaking of vice as a "necessity" scarcely avow the doctrine that while ignorance decreases, while property becomes better distributed, while the conflict of capital and labour becomes reduced, and the problem of pauperism approaches a solution, still exactly the same number of women, or a greater number, must unceasingly be sacrificed to the uncontrollable impulses of a proportionate number of men. No statesman, no social reformer, no honest citizen even—certainly no woman—would admit this for a moment, even as a speculative position. And yet it has been seen that the licensing system is built upon a highly complex body of laws and artificial institutions which cannot but operate so as to keep prostitution for ever up to its present point, or to increase it. How this is done has been shown abundantly in the former part of this treatise. The argument here is that, supposing all other circumstances in the country to be tending

PROSTITUTION
MUST SPONTANEOUSLY
DIMINISH.

CHAP. VII. towards the diminution of profligacy in men and women, the mere existence before the eyes of all men and women of so stupendous a mechanism, the sole purpose and meaning of which is to be found in the anticipated prevalence of a constant quantity of sexual vice cannot but sustain the existence of vice long after it, and the diseases attending it, would otherwise have become matters of very minute political moment.

III. ORGA-
NIZED PROS-
TITUTION
OPPOSED TO
FAMILY LIFE.

III. If it be taken as a political maxim that the State must make it a matter of its abiding endeavour to support the institution of Marriage and of Family Life, it is a corollary from this maxim that the State must guard jealously against the rise—silent, and unsuspected as it may be—of any fixed institutions and habits which are likely to compete with Marriage and Family Life, and, to the extent to which they prevail, to displace them. There is no doubt that habitual commerce with prostitutes does tend at some stages of society to take the place of life in the family. Many causes conduce to this, some of them less easily removeable than others, and none, or very few of them, to be directly reached by legislation. The State may be, at any particular moment, impotent to contend against the morbid outgrowth which threatens to destroy it. But the least it can do is to admit no institutions which seem, even in appearance, to countenance the unnatural element within it. Still more is it at the peril of its own continued health if it does anything to organise, formulate, and invigorate that which menaces destruction of the main conditions on which its very existence depends. Unmitigated hostility is its only safe and possible attitude, if it would not nurse a cancer in its frame. It only needs the example of some foreign countries, as detailed in previous chapters of this work, to show how readily laws and police regulations for the orderly management of sexual indulgence, and the physical protection of those

who succumb to it, call forth a response from the licentious cravings of the more loosely-strung portions of society. History, indeed, shows, what common sense might have anticipated, that merely repressive laws whether addressed to men and women alike, or, as has been most common, to women alone, are far too weak to grapple with a strongly-fixed proclivity to vice; and weak laws, by proclaiming their own impotence, only add to the evil they affect to remedy. But there is no reason whatever why the State should pass to the opposite extreme and specially patronise and help flagitious men and women only because its laws are inefficacious directly to repress their profligacy. The State must cling determinedly to its own policy and support its own essential moral institutions, either ignoring, or waging a deadly war with, all that endeavours to supplant them.

Of course, when it is said the State should "ignore" certain practices, it is not meant (as is sometimes unfairly imputed) that legislators are to shut their eyes to the immorality around them, or to the diseases and misery which that immorality causes. What is meant by "ignoring" these practices is forbearing to legislate in any way which shows towards those who persist in them the slightest favour, protection, or privilege; and not admitting for a moment that the practices themselves, in all their forms and however accomplished, are other than such as the law absolutely condemns, and only abstains (however reluctantly) from directly punishing because of its proved inability to do so with fairness and advantage. Every effort should be made to interrupt, to disappoint, to break up each incipient scheme for formulating habits of vice. Otherwise habit, the influence of example, and the numerous interests which competition is sure to call forth, instead of co-operating with the essential institutions of society will gradually establish rival institutions in their place; and the

WHAT IS
MEANT BY
IGNORING
IMMORAL
PRACTICES.

CHAP. VII. demolition of these rivals will demand a far more onerous and prolonged labour than is implied in the mere repeal of a class of laws.

IV. SUPPORT
OF CONJUGAL
AND PARENTAL
RESPONSIBILITY.

IV. Among the notions or institutions on the prevalent strength of which the well-being of the State, as well as its facile administration, largely depends are those of conjugal and parental responsibility. There are, no doubt, cases in which it is now held insufficient wholly to rely on this assumed responsibility as a sufficient protection to those who, by reason of tender age or accidental disability, are unable to protect themselves. It is to meet such cases that parents are in many modern countries, not only held bound, by legal penalties, to nurture, to vaccinate, and to educate their children, but have their children forcibly taken out of their hands for these purposes if they fail to comply with the law. Similarly husbands and wives are, in some few respects, legally compellable to perform the more obvious of their moral duties to each other. But in all these cases, though the law interferes with caution, and usually with reluctance, the direct purpose and natural result is to strengthen the general sense of parental and conjugal responsibility and not to weaken it; to punish breaches of parental and conjugal duty and not to connive at them.

It is an extraordinary and wholly anomalous plea made for the system of licensed prostitution that the State is bound to protect wives and children from venereal disease by contributing public money to provide openings for safe indulgence on the part of their vicious husbands or fathers. In a former part of this work it was shown that even were the principle admitted, yet a competition, at least, of claim would arise between the wives and children of the profligate men and the countless female relatives of honest citizens in humbler walks of life, on whom the whole burden of the system of licensed prostitution immediately and solely falls. But the

political principle contended for is wholly untenable. There is one way only in which, besides freely granting divorce and monetary compensation, the State can come to the succour of the wives and children of profligate men, and that is by treating the voluntary communication of disease as a penal offence. If there are—as there seem to be—insuperable judicial difficulties in resorting to this measure, it is no excuse for the State conspiring with evil doers and employing public money in order to carry the conspiracy into effect. The circumstances are indeed most lamentable, as is all cruelty and heartless brutality. But the power of the State is limited in grappling with detailed miseries, and because it cannot do good, it is no reason that it should, in desperation, resolve or consent to do evil.

V. There are other political principles to a greater or less extent infringed by the system of licensed prostitution to which attention has yet distinctly to be called. One of these principles is that in endeavouring to stem some of the consequences of an admitted moral offence in which a man and a woman are, from the nature of the case, equally sharers, it is a gross scandal to the sense of public justice to make all the burden of its measures fall upon the women and to attempt to confer only benefit (such as it is) upon the men. No doubt all kinds of reasons, apologies, and excuses are readily forthcoming for this course, and the best answer given by some is that they are ready to place men in exactly the same category as women, and to subject them to police control and periodical examination equally with women. It is evident, however, that this is a mere rhetorical device, and so long as the social and economical relations to each other of men and women remain unaltered, only the poorer offenders will be grouped as a class and surgically examined for the service of the richer. When these relations are altered, women, at least, will finally cease to resort to such a means of earning

V. INEQUALITY
OF THESE
LAWS.

CHAP. VII. a livelihood. But were all the apologies and excuses as good as they are worthless, the fact would remain that as things now are, half the offenders against a moral law which the State, at least, affects to regard as absolutely and equally binding on all alike, derive new immunities and advantages in the commission of the offence while the other half undergo the most serious loss of personal liberty, are exposed to a repulsive form of surgical assault, and are placed under a penal discipline to which all other persons in the community, including their male companions in guilt, are wholly strangers.

VI. VENEREAL
DISEASE LEAST
OF ALL TO BE
EXCEP-
TIONALLY
FAVOURED.

VI. Lastly, it has been established in a former chapter that if public money is to be expended in the cure of disease, there can be no shadow of excuse for the State selecting for the application of such relief the only class of disease which, as a rule, every one can keep away from himself and his belongings if he chooses; which, as a rule, no one can contract without, at the moment of contracting it, voluntarily disobeying what ought to be the plain injunctions of the law; and which has such an intimate connection with immoral acts as to make the systematic and public provision for curing it very hard or impossible to perform without giving a proportionate impulse to vice. This subject has, however, been fully discussed in the chapter on "Hospitals."

WHETHER THE
STATE CAN DO
ANYTHING.

If then the ground be so far cleared as to make it plain what the State cannot and must not do in remedying the evil and the diseases of profligacy and prostitution, the question is naturally asked whether the State can possibly do anything and, if so, what. There is no room now-a-days for the exploded notion that those diseases are not to be treated or cured which have, mostly, had an origin in sin; and still less for the cruel dogma of some fashionable circles that of all offenders against the moral and legal code, the poor prostitute alone is not to be so much as mentioned, and still less

to have her share of earnest philanthropic attention. CHAP. VII.
 There is room, however, for the introduction of a thought which has been hitherto all but absent, that the seducer, the persistent trampler on the woman who is down, the rich who tempts the poor should come in for their share of public attention.

It must be confessed at the outset of the inquiry that the general evils to be remedied, so far as they exist in any nation, are far too deeply implicated with the whole moral and social circumstances of the nation, and are too exact an expression of all the legal inequalities and hardships that prevail in it, for them to be removed by a single class of empirical legislative measures. It is at this very point that the medical advocates of licensed prostitution are at direct issue with their opponents. The former say that the diseases consequent on profligacy can be separated from the profligacy itself and assaulted by State agency of a distinct and definite kind. They further hold that even if it be true that the measures resorted to have the effect of stimulating profligacy on the whole, yet this sort of disadvantage is fully compensated by the material benefits procured in the reduction of disease. Their opponents, on the other hand, hold that if a choice must be made between a reduction in disease and a reduction in general vice, the latter object must take precedence over the former; but they also urge that the only sound and truly natural mode of approaching the whole subject with a view to legislation is to regard the moral and the physical evil as from the first inseparable and, while casting about for the best methods of healing both, closing with none which affects to remedy one of them—and that, the least momentous of the two, the physical evil—while increasing, fostering and organising in perpetuity the other of them. According to this view, both evils must be encountered at once, and in such a way as, on the whole, to favour the gradual disappearance of both, though perhaps not with an equal degree of rapidity. This

NO EMPIRICAL
 MEASURES
 POSSIBLE.

CHAP. VII. position, of course, makes the question of wise legislation on the subject a far more arduous one for the opponents of licensed prostitution than for its advocates, though the difficulties are inherent in the complexity of the subject-matter concerned.

PROFESSED
AND REAL
AIMS.

There are three distinct aims usually professed to be kept in view by legislators on this subject, though they attach a very different degree of value to one or another of their aims. One is the general reduction of profligacy both in men and in women; another is the recovery to a virtuous life of individual profligates; a third is the restriction and diminution of the diseases consequent on profligacy. Most of the fallacious reasoning on all sides of this question comes from outwardly professing to recognise the equal claims of all these objects while really sacrificing two of them to the third, or one of them to the other two. That the medical supporters of the system of licensed prostitution are largely guilty of this faulty reasoning has been sufficiently shown in the course of this work. It has been pointed out again and again that, though this class of supporters have always drawn attention to any superficial benefits to outward morality which might seem fairly attributable to their system, yet where the policy of restricting profligacy and restricting disease come into conflict, they invariably prefer the claims of the latter policy to those of the former. It has also fully been shown that if the system of licensed prostitution is logically worked from the strictly medical point of view, the general aim of those who work it must be to enlarge to the utmost bounds the circle of professed prostitutes, to put the utmost obstacles in the way of their partial and fitful attempts to give up the life, and to bind women to that life and to the surgical examinations it presupposes for the longest possible time and by the severest penal sanctions. So far as the police or other officials are believed to concern themselves in checking registration

and in facilitating dismissal from the register, they are apparently doing their utmost to obstruct the designs of the doctors, and to counteract the real purposes of the law. As to male profligacy, even the most sanguine and eloquent of the defenders of the system do not profess that the system does anything but impart to it a direct, enormous, and unceasing, stimulus. CHAP. VII.

But it is not only medical supporters of the system who reason imperfectly by professing to keep several ends equally in view and really sacrificing all but one or two ends to that one or to those two. There are pious but narrow-minded philanthropists who, by fixing their exclusive attention on the reformation of individual prostitutes, wholly neglect to attend to the fact that occasional reformations would be (if made) dearly purchased by a system, the very purpose of which is to manufacture as many professed prostitutes as possible, to organise them as a well-drilled and clearly recognisable class, and to bind them to their life by the double bond of association in an employment regulated with the routine of a factory and of common subjection to a special system of arbitrary police control. Whether all the reports of individual reformations under the system, as it exists in England and in other countries, are true or not, it is highly probable that some such take place, as they must, under any system; and it is still more probable that where they do take place they will be held by some persons to be attributable to the benevolent operation of the system and not to have occurred in spite of it. But if the truth of every case of alleged reformation were instantly accepted, this would not affect the condemnation of the system on purely moral grounds one iota. If the general policy is to facilitate and connive at male vice, and to force women who are verging on a life of prostitution to register themselves without further delay, and to keep on the books those who by a sudden fit of repentance or change of fortune might wish, on the instant, to leave

VALUE OF THE
INSTANCES OF
REPORTED
REFORMA-
TIONS.

CHAP. VII. the life for ever ; if this is what the system steadily tends to bring about, it is quite absurd to attribute to it, on the enumeration of specific cases of individual recoveries, habitual success in attaining two of the ends above mentioned, that of generally reducing profligacy and generally favouring individual reformation.

MEASURES
AVAILABLE IN
ENGLAND.

ARMY RECON-
STRUCTION.

SAILORS'
HOMES.

INCREASED
POWERS FOR
SUPPRESSION
OF BROTHELS.

ARREST OF
JUVENILE
PROSTITUTION.
DECENCY IN
THE STREETS.

It appears then that in order to attain either or all the above-mentioned ends at once, or at least one or other of them without sacrificing the other ends, legislation must be cautious and well-distributed rather than bold and empirical. Of more general remedies applicable to England, the reconstruction of the army on a basis which favours, instead of discouraging, marriage, and which secures the recruiting from a higher type of men than hitherto, and shortens the period of service, will gradually be found to meet one part of the difficulty ; while similar improvements in the organisation of the navy and—so far as law can achieve it—in the merchant service, coupled with the institution of wisely-planned sailors' homes, and the preservation of strict order in seaport towns, will co-operate in the same direction. Another part of the difficulty will be met by giving increased powers *both* to the police and to respectable inhabitants—who will thus check each other—to put down all lodging-houses so soon as they exhibit signs of becoming brothels. This will require a reconstruction of local acts now in force in some of the chief towns, and their extension all over the country. The absolute suppression of juvenile prostitution and profligacy in boys and girls, and the rigid preservation of public order and decency in the streets, whether it be violated by men or women, by a more effective police force and better regulations than are found in many towns at present, are also remedies which obviously suggest themselves.

The objections to Government hospitals or wards in hospitals for venereal diseases have been consi-

dered in a former chapter; but there is no objection to the State bringing any administrative or legal influence it can avail itself of to insist that, in the case of all endowed hospitals, not established for some one special complaint, no applicant shall be excluded simply on the ground of the character of his or her disease. This would do something not only to open existing hospitals but to do away with a cruel and mischievous prejudice. As to reformatories and other institutions of their nature, it is not clear how law can show them any more favour than it shows to charitable institutions existing for a vast variety of excellent purposes. A great amount of difference of opinion among experienced persons exists as to the mode of organising and managing them, and it would be a matter for regret at present if any one tentative mode obtained a permanent advantage over all the others by securing the patronage of the State. It is further very undesirable to give them any public prominence, as they tend to keep up the notion that prostitute women are a class quite apart from the rest of the population in a sense in which the men who habitually consort with them are not. This notion, as has been abundantly seen, tends to reproduce the very evil it describes, and it should be the object of a reconstructed policy wholly to ignore and repudiate it.

These suggestions mark the line which a prudent and morally safe policy in respect of sexual vice might take in this country. Fortunately, in England, the system of licensed prostitution has, as yet, taken such a comparatively weak hold, and is so counter to the most deeply fixed political institutions that it could be given up with a very slight wrench of the social fabric. On the Continent, on the other hand, the system is so deeply implicated with the very notion of police administration, and has entered so profoundly into the life and conceptions of large classes of the people that the strain of changing the policy of more than a hundred years may be expected to be of the intensest kind.

CHAP. VII.

OPENING OF
GENERAL
HOSPITALS TO
VENEREAL
COMPLAINTS.

ATTITUDE
TOWARDS
REFORMA-
TORIES.

CHAP. VII.

That it will, however, be successfully encountered there are already in one country and in another signs of the most unmistakeable kind.

The attitude which an intelligent foreigner, well conversant with the licensing system and familiar with political modes of thought, already assumes towards principles of State regulation of vice in all their manifestations may be learnt from the speech of M. E. de Pressensé at a Conference held in London on the subject, on May 19th, 1876. M. E. de Pressensé had been Deputy for the Department of the Seine, and had also served on a special Commission of Inquiry into the condition of the Hospital of St. Lazare, the chief "certified hospital" under the system at Paris. The following extracts from the speech are worth citing, especially in order to contrast the clear conception of the moral duties of the State, as formulated by the best Continental thinkers and practical statesmen, with the cloudy and hesitating notions of political responsibility in moral matters which sometimes pervade the utterances of leading members of the English House of Commons.

He said: "I bring you the testimony of my personal conviction recently formed upon this great question. "I shall not enter into the details of your English legislation: I have not occupied myself with it, and "I content myself with saying that I am convinced "that it is not possible to stand still in such legislation. "We must either go back or advance. It is a logical "necessity which it is impossible to escape. * * * "In our large cities a great trade in immortal beings "is carried on. Who conducts it? That is the question. "Wherever a system of sanitary laws concerning "prostitution exists, as in France, I say it is the State "which carries on this trade in the souls and bodies of "human beings. It is the State which guarantees and "patents it. I admit that this is not done with the "object of directly encouraging immorality. I ac-

" knowledge that the question is a very complex one, CHAP. VII.
 " and I cast a stone at no one. There are many whom M. E. DE
 " I respect who have fallen into the error which I PRESSENSÉ ON
 " combat, and I know that it is not in order to main- THE MORAL
 " tain immorality that they countenance this trade, FUNCTIONS OF
 " but rather, as they think, to maintain public health THE STATE.
 " and security. Let me say, first, that the fact of the
 " State holding this market for debauchery is suffi-
 " cient to destroy the very idea of a State, whatever
 " view of the State you may take. Well, I ask, can a
 " State represent law, can it represent justice, when it
 " patents and recognises vice under its most hideous
 " form? It is because a sentiment has been awakened
 " of the true notion of a State, that the State no longer
 " farms out the gaming tables which were formerly
 " established under its protection. Shall not that
 " which is true of gambling be held to be true of
 " debauchery? There is an institution of the State to
 " which we hold fast on the Continent as a safeguard
 " of liberty of conscience—I mean civil marriage,
 " which permits persons to marry without being forced
 " to enter the married state through this or that Church.
 " The State, when it authorises and presides at a
 " marriage, fulfils a high magisterial function. Well, I
 " say, it does not seem to me possible that the State
 " can recognise at the same time marriage and prosti-
 " tution. Such a thing is an entire overturning of the
 " notion of a State. I add that the State ought to
 " defend right and justice, but conformably to the law,
 " and giving protection to individual liberty. It is a
 " well known axiom that it is the duty of those who
 " defend the right by the sword to guarantee individual
 " freedom; without such a guarantee the State is
 " despotic. The liberty of citizens ought to depend,
 " not on the administration, but on the magistracy.
 " What I complain of is that under the system of
 " sanitary organisation existing in my own country,

CHAP. VII.

M. E. DE
PRESSENSÉ.

“ a crowd of unhappy creatures are taken from the
“ protection of law and justice, and handed over to the
“ arbitrary decisions of the police. I say that is a
“ violation of the true principle of the State. In
“ times of revolution this is called the *régime* of public
“ safety, intended to save the country by violating law.
“ You come to us with a measure intended to promote
“ the public welfare, a measure which suppresses law
“ for the pretended interests of the State. Let me ask
“ whom is it you design to save? Certainly, it is not
“ the *woman*, who is the necessary victim of your
“ system. No, you do not save the woman by your
“ pitiless mechanism. You wish to save the young
“ man. You wish to save his body. You speak not
“ of his soul, and you are right. Do you save him in
“ his body? You do not. Even here your system
“ utterly fails. I cannot enter into details. I can but
“ indicate the fact, and I say it is certain, even from
“ the documents which have been furnished by the
“ partisans of the system themselves, that the evil
“ which they desire to prevent increases every day.
“ For one victim that comes under your observation,
“ there are thousands who escape you, and your mea-
“ sures of protection are useless. You cannot carry
“ out your system, and up to the present time it has
“ miserably failed. How could it be otherwise? You
“ would regulate vice, but it is of the essence of vice to
“ refuse to be regulated. Vice violates moral law, and
“ you may expect it will transgress human rules. It
“ is like a mighty river that has overflown its banks.
“ It is a torrent whose fury you cannot arrest. You
“ cannot say, ‘Thus far shalt thou go and no farther.’
“ It mocks at all your regulations. In my native city,
“ which I have the honour to represent, it is certain
“ that since these regulations have been in existence,
“ vice has increased in a truly frightful proportion.
“ Do you know what you are doing? You facilitate

" the first steps to vice. You make young men all
 " over the country believe that debauchery at a certain
 " age is a natural law, a law which the State recog-
 " nises; and thus you make the State the tempter of
 " the young man. In facilitating these first steps, you
 " favour public immorality; for the patented evil has
 " its recognised place in human legislation. * * *
 " Permit me, in conclusion, to say a word about women.
 " The partisans of the system which we denounce,
 " say:—'These measures by which we defend our-
 " selves against the public danger, after all, only
 " apply to the infamous creatures who sell themselves,
 " and who have put themselves beyond the pale of
 " the law and of society. They are but the dirt of
 " the streets.' Now, I do not overlook the abomi-
 " nation of paid debauchery. It is abominable; but I
 " maintain that there are distinctions to be made.
 " Read the statistics which have been prepared by the
 " most competent, and you will find that there are
 " young girls of 16, 17, and 18, there are mere
 " children, who have been seduced and abandoned,
 " and thus driven to the streets. Prostitution is a
 " drama in three acts. The first act is seduction, the
 " second act is the house of ill-fame, and the third is
 " the street. Have you no pity for these victims?
 " Will you throw on them the last shovelful of earth,
 " and hurl them to the bottom of the abyss? Yes,
 " the vice which sells itself is abominable; what then
 " must we say of those who buy it? * * *
 " There is a house at Paris where the results of all
 " these abominations may be seen—the women's prison
 " of St. Lazare. There you may see these unhappy
 " creatures—the young, who have but followed the
 " paths of their elders in profligacy. Frightful cor-
 " ruption abounds. The administration does what it
 " can in Christian charity; but vice replies, 'I am at
 " home here.' It is the citadel of prostitution. We

CHAP. VII. "must destroy it, bring it to the ground stone by stone, as our fathers demolished the Bastille."

There is no doubt that the abstract conception of the State and of its duties is somewhat alien to English modes of thought, even at their best; and it is true that the experimental methods of English politics have proved a safeguard against many dangers with which Continental statesmen are only too familiar. But even though the word *State* has no special magic for English ears, yet there are fixed principles of government cherished by English citizens which are established by inductions of the widest sort, and fortified by practical experience renewed every day, and yet almost as old as the English nation itself. When an Englishman speaks of the British Constitution, it is a reality, and not a figment of the fancy which he has before him. It is a reality tested and guaranteed by an unparalleled record of national vicissitudes. It stands forth as at once the product, the creator, and the crown of private right, public virtue, equal laws, and equal justice. It marks an impassable line beyond which no experimental theorist will be allowed to pass unchallenged, or the most seductive debater to treat otherwise than as the "*pomærium*" or holy ground which encompasses the city on every side.

CHAPTER VIII.

CONCLUSION.

It may be convenient to the reader to give a brief re- CHAP. VIII.
 trospective view of the lines of argument which have
 been pursued in the previous chapters, and to indi-
 cate the conclusions which have been reached.

It appears that, for a long time past, the sexual irre- CLASSIFICA-
 TION OF EVILS
 TO BE REME-
 DIED.
 gularities which have manifested themselves in the
 leading cities of Europe and other centres of dense popu-
 lation, have expressed themselves in certain manifest
 evils which have, at different times, and in different
 degrees, attracted the attention of Governments. These
 evils may be briefly classed as (1) the diffusion and
 alarming increase of disease; (2) the corruption of the
 young of both sexes and of society at large; and (3)
 the utter demoralisation and abandonment of the
 women who, through necessitous circumstances, are
 induced to satisfy the demand for vice by a debasing
 and monstrous traffic. There is, probably, no one who
 has bestowed serious attention on the subject who is
 blind or indifferent to the existence of every one of
 these evils; or who would willingly adopt measures
 which might effectually grapple with any one of them
 at the price of aggravating the rest; or who would
 not prefer, among a series of proposed measures, that
 one which would address itself most hopefully to all
 the evils at once. In estimating, then, the political
 value of any measures which it is open to Governments
 to adopt, their probable bearing on all the evils calling

CHAP. VIII. for remedy, and not only on one or two of them, at the expense (it might be) of the remainder, must always be kept in view. This canon of measurement is, indeed, practically adopted in outward form both by the leading foreign writers on the subject, and by the statesmen who discuss it from time to time in the House of Commons.

CONDITIONS
TO BE SATIS-
FIED BY AN
EFFECTIVE
REMEDIAL
SYSTEM.

It is generally and openly announced that, unless an existing or proposed remedial system can be proved at at once (1) to restrict and mitigate disease; (2) to promote morality throughout the community, and especially among the young; and (3) to advance the true moral welfare, and favour at all points the moral recovery, of the women who are the chief victims of vice, no civilised country can adopt, or retain that system. This is the clearly ascertained standard by which every measure must (it is admitted) be and is, in outward form, habitually tried. Health, public morality, and personal reformation, are three objects no one of which can be permanently sacrificed to the rest, and which the statesman as well as the philanthropist is bound to regard as of co-equal moment. Of course, in selecting among rival measures with equal pretensions otherwise, as in all other cases of choosing political machinery, that is to be generally preferred which, in its execution, involves the least sacrifice of personal liberty, and no measure, however seemingly advantageous otherwise, can be adopted which involves a sacrifice of personal liberty not reconcilable with the fixed political institutions of the country concerned.

FOUR
COURSES OF
ACTION OPEN.

There are four courses of action, and, as it would seem, four courses only, which are open to the statesman in reference to the evils under discussion. There is first the adoption of a severe penal system for the absolute suppression of sexual irregularities. This has been attempted in some countries and is well known to have invariably proved a failure in every respect.

The narrative of these abortive efforts is one of the most curious and instructive chapters in social history. There is, secondly, the adoption of a system of absolute abstention from direct legal interference of any sort. This was, up to the year 1864, very nearly the policy pursued in England; though, as has been seen, provisions had been made both by Common Law and by Statute, and especially by Local Acts of Parliament in some of the chief towns of the country, for a departure from this policy. There is, thirdly, the adoption of a licensing and regulation system, such as has been the chief topic of the previous chapters.

CHAP. VIII.

There is, fourthly and lastly, the adoption of a system which, while by no means neglecting the evils to be remedied, treats them as far too complex to admit of a safe empirical treatment by any cut-and-dried medical, police, or other organisation; and which, while providing by just and wisely-adapted legislation for a correction of such patent evils as are properly within the reach of law, trusts mainly to a gradual improvement—whether brought about by legislation or by other modes—of general social conditions for a removal of the true causes of a class of evils which are, in fact, the last expression and outcome of all the moral infirmities and harsh inequalities with which a luxurious society is afflicted. Such a system would above all rest on the tacit assumption and public profession of the supreme ascendancy of the moral law of purity, and on the absolute claims it possesses on the equal allegiance of every man and woman.

It has been seen that the system which mainly prevails in the chief cities of Europe in the present day is the third of the possible systems here adverted to, that of licensing, regulating, and protecting vice. It has recently been partially imported into England, and, curiously enough, at the very time that it is beginning to be smitten with the blight of distrust, scepticism,

THE
LICENSING
SYSTEM.

CHAP. VIII. and general unpopularity abroad. Indeed, there is not a single country of Europe where the system has long and notoriously flourished in which the most serious complaints of it are not being, at the present moment (Jan., 1877), made in authoritative quarters, and widespread popular movements taking place, with a view to abolish it.

VALUE AS A
SANITARY
AGENCY.

Of course, the most prominent question, though by no means the only or most important one, to which the licensing system gives rise is that of its value as a purely sanitary agency. It is on sanitary grounds that it has been introduced and is mainly defended, and, if it could no longer be maintained on these grounds, it would probably not be thought worth while to persist in its maintenance on any other grounds.

The extent and nature of the diseases under consideration, the possibility of detecting their presence by surgical processes, and the benefit to be expected from bringing diseased persons under treatment and forcibly detaining them under it, are questions on which medical experts are entitled to an authoritative opinion, and the most that other persons are entitled to contribute to this part of the controversy is to note any inconsistencies to which individual medical witnesses may commit themselves or discrepancies which their aggregate testimony may disclose.

FUNCTIONS OF
MEDICAL
EXPERTS.

But when medical experts, having formulated their opinion on the topics which appropriately belong to them, invite and recommend special legislation, they can no longer claim any exemption from criticism on the ground of exclusive acquirements, and must fortify their position by the same kind of arguments as those of which every other member of the community can alone avail himself.

It appears then that in many countries of Europe, and recently in England, a class of medical experts who have pronounced views, whether rightly or wrongly

founded, on the prevalence and national danger of venereal diseases, on the possibility of their detection, and on the advantages of special modes of treatment, have succeeded in converting a vast amount of legal and police machinery to the purpose of giving practical effect to their views. They have succeeded in creating, either by Statute, or by municipal or police regulation, a vast organisation which has for its immediate and prominent, if not its exclusive, object, the calling into legal existence of a class of women which shall be large enough to include every woman who may perchance disseminate disease; which shall be under assiduous police, medical, and (if needed) hospital control; every member of which shall be guaranteed by the State as safe for hire; and no member of which can leave the class except by the assent of the police.

Now, apart from all controversy with respect to the value of the medical theories which are at the root of this system, and from all dispute either about such minor results of the existing system as are capable of being dressed in a statistical form, or about alleged accidental abuses of a preventable sort, there are some aspects of this system which are plain on the face of it and which it needs only a full description of the system itself to bring into the clearest possible view. It is the discovery of these aspects which has been the main purpose of the previous chapters, and the general results seem to be as follows:—

1. The medical theory on which the system rests demands that the class of registered women be made as inclusive as possible, and that the criterion for admission to the class and retention within it be not a woman's moral antecedents or moral prospects, but her liability to communicate disease. No doubt there are a vast number of women who would be included in the registered class, whichever criterion was taken. But, beyond the limits within which classification is

CHAP. VIII.

1. THE CLASS
MUST BE AS
INCLUSIVE AS
POSSIBLE.

CHAP. VIII.

SANITARY AND
PHILAN-
THROPIC AIMS
MADE INCOM-
PATIBLE.

easy and simple, the sanitary zealot and the philanthropist are pursuing directly opposite lines of policy. From the sanitary point of view all doubtful cases must be included. From the moral point of view all these must be excluded. From the sanitary point of view the class, when constructed, must be kept rigidly compact and drilled at all points for purposes of easy surveillance and manipulation. From the moral and reformatory point of view all formal assortment and habitual association with each other on the part of registered women raise so many obstacles to individual recovery and directly tend to promote an almost hopeless condition of demoralisation. Lastly, from the sanitary point of view, the presumption must almost be against the expediency of dismissing a woman from the register. Indeed all kinds of obstacles must be placed in the way of her accidental escape. From the moral point of view, the presumption must always be in favour of dismissal, and her path to a better life cannot be made too easy and directly accessible. It has been already seen in an early chapter of this work* that, even from the point of view of public liberty, the conflicting claims of alleged sanitary science and of administrative necessities are so hard to reconcile that the Parisian police and certain French doctors have entered on a somewhat violent personal controversy, as to what might, and what ought, to be done. M. Lecour, in fact, gives up as hopeless the attempt to carry out the true medical theory with any degree of completeness. It is confessed that in large cities like Paris and Berlin, even with the utmost official resoluteness, only a small proportion of the women actually practising prostitution are ever registered; that hundreds frequently escape from the register by their own efforts every year; and that an amount and virulence of disease is to be found in those cities wholly unknown elsewhere, and which renders one of them the habitual

* p. 32.

resort of medical students in search of exceptional opportunities of studying this class of complaints. CHAP. VIII.

2. There are two modes of bringing a woman upon the register; one, by a more or less formal and more or less public judicial enquiry; the other, by a confidential transaction conducted between the woman and a police agent in which the woman's formal acquiescence is obtained, extorted, or simulated. It has been seen, by reference to all the most authoritative writers on the subject and to the text of the laws and regulations actually in use, that the main reliance for filling the register is placed upon the latter mode and not the former. Even in England it appears that ninety per cent. of the women are brought upon the register by this affected "voluntary submission." In spite of some hesitation and constitutional reluctance on the part of certain writers they are all unanimous in holding that the register could never be replenished up to the point which even a plausible compliance with the medical theory demands by any other methods than by those of suspending guarantees for public liberty loyally cherished in all constitutionally governed countries, and of giving powers to the police which must be indefinite and practically irresponsible. It appears from an examination of the laws and regulations themselves that such powers are in fact invariably conferred on the police; that the exercise of these powers, even when free from abuse, must press hardly and cruelly on the women who are the intended subjects of them; that it cannot but frequently press with disastrous and irremediable severity on women who are not the intended subjects of them; and that whereas,—like all other powers,—they are liable to abuse, the abuses are here so much the worse in comparison with the abuses of powers given by other parts of the law that

2. EFFECTS OF
MODES OF
REGISTRATION.

CHAP. VIII. the powers are in this case exercised in secret, and the most strained efforts are made to prevent an appeal to a superior Court of Justice.

3. PATRONAGE
OF BROTHELS.

3. The most confessedly odious part of the system is the patronage avowedly or implicitly bestowed upon persons who subsist by providing houses and rooms for purposes of prostitution, by keeping up a monstrous international trade for the purpose of supplying the market of vice, and by facilitating vice in every way that a loathsome and avaricious imagination can suggest. In some countries it has been seen that the practice of openly licensing brothels has been abandoned or is on the verge of being abandoned. In England much credit has been taken by the defenders of the system for abstention from any further legal recognition of brothels than by laying the "manager" or "assistant" manager under special liabilities if he harbours these women. What this defence is good for has been examined at length. In other countries, again, among which are English dependencies, it has been seen that the public licensing of houses for purposes of prostitution and the internal organization of these houses is one of the most prominent and vaunted parts of the system. It is transparent, indeed, that the public recognition of these houses largely facilitates the operations of the police; that it casts the responsibility of compliance with medical and police requirements upon a few well-ascertained persons interested in retaining the favour of the public authorities instead of diffusing it among an indefinite number of persons notoriously insusceptible of control; and that it economises to the utmost the labours of the surgeons, police, or other officials concerned. There are thus the strongest inducements, from one point of view, to create and maintain the practice of licensing brothels, if the system of licensing and regulating vice is to be supported at all. It has been seen that even where public

policy or public taste is averse, as in England and at intermittent intervals in Germany, to the express and public licensing of brothels, a spontaneous and practical licence of these houses, effected by the police for their own convenience, necessarily springs up. Those keepers of the houses who co-operate with the police are protected and thereby encouraged. The rest continue liable to the penalties of the ordinary law. The dreary story of the amicable relations existing in England between the Metropolitan police and brothel keepers is told at length in the evidence produced before the Royal Commission which has been already cited. (Chap. IV.)

4. If the system could be defended at any point, it might have been expected that the provision and maintenance of free public hospitals for the cure of disease would have been that stronghold. But this expectation vanishes when it appears that a woman can only qualify herself for sharing in this gratuitous treatment by having herself first registered as a common prostitute; that the patent or apparent purpose of these hospitals, as written legibly on every part of the institution, is not the cure of disease as an end in itself, but the provision or guarantee of healthy women as an end in itself; that a knowledge or suspicion of this purpose cannot be concealed from the women who are under treatment, and that this knowledge or suspicion cannot but vitiate, at the fountain-head, all the influences of a moralising kind which a residence in a hospital for no other end than for the cure of disease usually imports.

4. INFLUENCE
OF THE CERTI-
FIED HOSPI-
TALS.

5. With respect to the directly moral bearing of the system under consideration, it has been attempted in some quarters to restrict the enquiry into moral consequences to a narrow investigation of such calculable facts as the outward social improvement in the class of

5. AGGREGATE
MORAL INFLU-
ENCES OF THE
SYSTEM.

CHAP. VIII. registered women, the number of personal reformati-
 ons effected, and the degree in which temptations have
 been withdrawn from the public thoroughfares, and
 juvenile vice actively repressed. Some of these results,
 as that of the improved social *status* of prostitutes, are
 confessedly of most dubious significance; others, as
 that of the number of personal reformati-
 ons effected, rest upon warmly controverted testimony, while they
 cannot, in any case, depend for their validity on the
 periodical surgical examination of women, which is the
 essence of the system; and these reformati-
 ons must, at the best, be set off against the number of reforma-
 tions prevented by premature registration, and by the
 iron clutch with which the register grasps every woman
 once inclosed in it.

ALLEGED
 BENEFICIAL
 RESULTS ARE
 INDEPENDENT
 OF LICENSING
 SYSTEM.

Others, again, of these presumably beneficial re-
 sults, as the clearing away of temptations from the
 streets and the repression of juvenile vice, though
 they may (perchance) be worked side by side with a
 licensing system, based on the periodical surgical
 examination of women, and are likely to be so when
 they impart a factitious credit to it, can have really no
 essential connection with it or with the surgical exa-
 minations. The decency of the streets may be protected
 contemporaneously with a licensing system or in the
 absence of one, as in Plymouth before the English Acts
 came into force and at Liverpool at the present time.
 The same is obviously true of juvenile vice. There is
 not a word in the English Acts nor in any part of the
 regulation system abroad which contemplates the im-
 provement of the streets or the prevention of juvenile
 vice as any essential part of the process, or indeed, any
 part of the process at all. If it be said that, in practice,
 these beneficial results do, in fact, flow from the system,
 whether intended or not, all that can be replied on a
 disputed question of fact is that this position is sharply
 controverted, and that there is a respectable amount of
 testimony to the effect that nowhere are such obtrusive

and subtle temptations presented to both sexes and all ages as in those cities in which the regulation system has been carried to the utmost degree of so-called perfection and where, from the comparative narrowness of the area, and elasticity of the materials, a certain measure of medical success of a plausible kind is alleged to be obtained. CHAP VIII.

But these narrower inquiries into the only sort of moral results which are cognisable to the senses by the medium of statistics, so far from being the whole, only touch the fringe, of the true moral investigation. THE TRUE
SUBJECT OF
MORAL INVESTIGATION. The real question is whether the licensing system, as a whole and looked at in reference to all its essential parts, does or does not subtly deprave the moral standard of society at large and tend to make men and women generally, of all ages and conditions, worse, instead of leaving them where they were, or making them better. A system of State-licensed vice cannot be a secret one, especially in a country with effective Parliamentary institutions where it must exist by Statute if at all. To some persons, indeed, the system, in its details, comes nearer than to others, and to the women who suffer under it and the men who immediately profit, or hope to profit, from it, it comes nearest of all. To all these, in their several degrees of proximity, the fact of the recurrent examinations cannot but be simply demoralising as an ever-present practical lesson. The fact of this unremitting surgical manipulation of women for the direct purpose of ever-renewed vice cannot fail to degrade women generally in their own eyes and in the eyes of others, and must, to that extent, tend to suppress and override those moral scruples of which an invincible reverence for women on the part of themselves and on that of men is the natural nurse and shield. This effect of the examinations becomes indefinitely intensified as they become more frequent,—according

CHAP. VIII. to the persistent claims of the medical profession and the increasing practice,—and is continued and aggravated enormously by every other part of the system. Whatever ingenious explanations may be given about merely correcting a few of the consequences of an eternal and unchangeable evil, the real and hourly teaching is so explicit that he who runs may read. It is, and can only be, that vicious men have become a political and influential power in the State; and that, as such, they are entitled to demand of the public tax-payers an expensive machinery for the protection of their own vices, and to insist on having suitable tools for those vices fashioned ready to their hands out of less influential classes of society than themselves. The voice of the State no longer gives a clear and certain sound in favour of righteousness. It make a desperate, but happily impotent, effort to oppose physical to moral purity, and to put asunder what are evermore joined together. Instead of simply commanding, as it best may, what is morally good, it is surprised in the act of a treacherous connivance with what is morally bad. It stands before its subjects in the commanding position of the supreme monopolist and prime minister of sin.

APPENDIX.

ILLUSTRATIVE SPECIMENS OF THE LAWS AND POLICE REGULATIONS FOR THE LICENSING OF VICE IN THE DIFFERENT COUNTRIES OF EUROPE.

THERE are many reasons which make it extremely difficult to obtain, for purposes of comparison, an accurate account of the laws, or regulations with the validity of law, on the present subject, which at any given moment are in force in a variety of places widely separated from each other, and having their political institutions and legal systems cast in a variety of very different moulds. Police regulations, especially of this kind, naturally shun the light, and are peculiarly liable to change in points of detail with the succession of new officials or the suggestions of new experience. This has been notably the case in Paris with respect to regulations for the “inscription of juvenile prostitutes.” Each succeeding prefect has usually tried, at the commencement of his term of office, to raise the age at which inscription was possible, but he has generally found himself bound to relax the rule and admit inscription at a lower, and afterwards a still lower, age. M. Parent Duchâtelet (vol. 1, page 365) asserts that he himself had found on the Parisian registers a large number of women entered of the ages of 15, 14, 13, 12, 11, and even 10. It has been noticed by the French writers that this inscription of children, being in direct conflict, as it is, with the 334th

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clause of the Penal Code, which punishes with imprisonment and fine all violations of public decency by "exciting, "favouring, or facilitating" the immoral practices or the corruption of persons of either sex below the age of twenty-one, must lead occasionally to the gravest anomalies and practical injustice. The police recognise and protect, that is encourage, the acts of a woman, for sharing in which a man, if he errs in conjecturing her age, is liable to criminal punishment.

JUDGMENT OF
THE COUR DE
CASSATION.

M. Lecour cites the following very illustrative judgment of the Chief Court of Criminal Appeal ("Cour de Cassation") in reference to this point. "It is a penal offence (*delit*) to encourage the profligate practices of a girl under age, as, for instance, by admitting her as a prostitute into a *maison de tolérance*, even in a case in which a local regulation would allow of admitting women below the age of twenty-one years, such a regulation being impotent to restrict the prohibitions contained in Art. 334 of the Penal Code. The exception which might be founded on the alleged *bonâ fide* belief of the accused that he was entitled to the benefit of that regulation is rejected with sufficiently good and obvious reasons when the judge can record against the accused numerous offences taking the form of the corruption of persons under age and of fraudulent practices, in addition to the fact that municipal decrees cannot prevail against the law." (See, also, Rogron's Code Pénal, p. 828, for a *résumé* of the leading cases decided on this part of the Code.)

Again, not only do the details of the regulations undergo changes, sometimes of a most capricious kind, but the national policy in all countries on this subject more than on any other, has been notoriously liable to marked fluctuations according as public attention has been accidentally and momentarily roused or as religious or medical enthusiasm has alternately had uncontested sway. This has been especially the case in Germany with respect to the avowed public licence given to brothels, an interesting account of which, previous to the year 1870, will be found in Mr. Acton's work, (p. 139). Dr. Chapman's pamphlet, reprinted from a series of articles

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in the *Westminster Review* entitled, "Prostitution : Governmental Experiments in controlling it" (Trübner), may also be referred to as affording proofs of the characteristically vacillating policy which has directed the action of all countries in this matter. Even in England a local Act of Parliament of Henry the II.'s reign (A.D. 1161), provided for the legal regulation of brothels in Southwark. According to this Act, no woman was to pay more than fourteenpence a week for her room, the doors were not to stand open on sacred days, and no woman was to remain in the house on those days ; no woman was to be detained if she expressed a desire to abandon her sinful life ; no man or married woman was to be received as an inmate ; no woman was to receive money for consorting with a man unless she continued with him the whole night ; no man was to be allured or solicited to enter a brothel ; the constables and police were to inspect the brothels once a week ; no master of a brothel might entertain a woman suffering from leprosy, nor must he sell bread, ale, meat, fish, wood, coal, or any sort of provisions. This Act, being a local one, no doubt simply passed into desuetude, and the policy it indicated gave place to the repressive policy of the Common Law already examined.

ENGLISH ACT
OF A.D. 1161.

It is a misfortune that the Royal Commission of 1871 did not avail themselves of the opportunity to obtain, though the Foreign Office, accurate reports of the state of the law in all countries of Europe. An authoritative collection of such reports would be a great gain in the thorough discussion of the subject, and this want may hereafter be supplied. In the meantime, there are many sources from which a trustworthy and fairly precise view of the regulations in force in some of the most important towns abroad can be obtained, and so much of this view as is needed to illustrate the arguments used in the present treatise is given below.

Mr. Acton's work is especially valuable as an authority on the regulations in existence at the time of the publication of the last edition (1870). Mr. Acton had the advantage of obtaining, through the help of the Earl of Clarendon, then at the head of the Foreign Office, the co-operation of the British Consulates and Embassies abroad in his efforts at

MR. ACTON'S
WORK.

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MR. ACTON ON
THE FOREIGN
SYSTEM.

getting hold of information not otherwise accessible to the public. With respect to France, Mr. Acton was for some years "Externe to the Female Venereal Hospital" in Paris, and of course was then personally familiar with all he describes. He was by no means an approver of all he describes, and it has already been seen that he was sanguine in his hopes that England might avoid the characteristic evils of the system as it is abroad. He says (p. 97), "We shall meet in the course of our enquiry with much that is strange, and it may be repugnant to our feelings. Our true wisdom is to shake off national prejudice, and to extend to institutions found among others the like patient and impartial examination that we would demand for our own; but we must at the same time be careful not to accept rashly things merely because they are new, or to reject things because they are old. Above all, we must pay to the religious and moral instinct the liveliest deference, being convinced that whatever is really repugnant to this has within it the seeds of evil. If we come to the conclusion that this condemnation must in fact be passed upon the foreign systems, we may still find some principle underlying their practice which we may with advantage adopt."

DR. PARENT
DUCHÂTELET'S
WORK.

The next chief authority in this matter is the third edition of the great work of Parent Duchâtelet. The edition was prepared by MM. A. Trebuchet and Poirat-Duval, and appeared in 1857. It is twice the size of the original treatise, and a good half of the second of the two volumes is taken up by a full, and sometimes exhaustive, account of the regulations now in existence in the different countries of Europe.

DR. JEAN-
NEL'S WORK.

Dr. Jeannel's work on "*Prostitution in the Great Towns in the Nineteenth Century*," so often alluded to in the previous part of this treatise, the second edition of which appeared in 1874, gives very recent and detailed, though often somewhat desultory, information as to the actual state of the law in different towns and countries.

M. LECOURE
AND DR.
MIREUR.
ITALIAN RE-
GULATIONS.

M. Lecour is, of course, a first class authority on the French method generally, and Dr. Mireur on that pursued at Marseilles.

The Italian regulations given below, which generally accord

with the account of them given by Dr. Jeannel, are translated from a copy of the regulations obtained, within the last year, from Italy. APPENDIX.

The Brussels regulations, obtained direct from that city, are so methodical and significant and so constantly cited as typical, that it has been thought worth while to translate them in full from the official copy; one or two other documents are also included for the purpose of explaining and illustrating the regulations. In 1856 a scheme of Communal Police Regulations was prepared by the Superior Council of Public Hygiene, for the purpose of being adopted, at its pleasure, by any town in Belgium. They do not differ much from the Brussels regulations, and have nowhere been adopted as yet. BRUSSELS
REGULATIONS.

Besides the text of the laws and regulation strictly so called, the text of certain other documents is included in the Appendix for the purpose of throwing a clearer light on the real significance and limits of the laws and regulations. Such, for instance, is the elaborate judgment of the Court of Rheims, presided over by M. de Bourbonne (p. 290), and the Regulations of *l'Hôpital de la Conception* at Marseilles (p. 308).

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The following regulations have been in force since 1844. It is said that proposals have recently been made to revise them. They are the most complete, precisely written, and, in some respects, instructive existing anywhere.

REGULATION ON PROSTITUTION.

THE COMMUNAL COUNCIL

Considering that the regulations on prostitution now in force do not contain all the provisions the necessity of which is established by experience, and are not in harmony with later legislation :

With a view to making more adequate provision for all that relates to this important department of administrative police :

Having regard to Articles 78 and 96 of the law of the 30th March, 1836 :

Decrees :

SECTION I.—*Of Common Women, their Inscription on the Register and their Dismissal from it.*

1. Under the head of “common women” are included all girls or women who habitually surrender themselves to prostitution.

They are divided into two classes :—

- (1) Women in a house (*filles de maison*), that is, those who have a settled abode in the brothels tolerated by the administrative authority.
 - (2) Women at large (*filles éparses*), that is, those who have a private residence.
2. Both classes are obliged to have themselves inscribed at

a dispensary established for this purpose, and where a separate register is kept for each class. APPENDIX.

The official at the dispensary will furnish separate lists for the police and for each branch department of it. INSCRIPTION
OF COMMON
WOMEN.

3. The inscription of a common woman will be made, either at her own request or as a matter of official routine (*d'office*) by the College of Burgomaster and Aldermen.

4. Every common woman not registered will be remitted to the police office to have her case inquired into; if the occasion demands she will be registered in accordance with Articles 2 and 3.

A woman who disobeys the first summons will be liable to the penalties mentioned in Article 49 below.

5. The registration of a common woman will indicate her inscription number, her first and second name, her age, the place of her birth and residence, her last domicile, her previous occupation (*profession*), and the causes which have led her to surrender herself to prostitution.

The passport, certificate of birth, and other documents which ascertain the civil *status* of registered women, will be deposited with the Police Division.

Every woman will have her own private receptacle for the documents which relate to her.

6. After her inscription every woman will receive a ticket (*carnet*), the form of which will be settled by the College, and which will include a notice of the chief points mentioned in the inscription register, and, in addition, her description and signature, if she can write.

An extract from the regulation, so far as it relates to "women at large," will be printed at the head of the ticket; it will be read over to women belonging to that class at the time of their inscription.

7. Registered women are strictly forbidden to lend their tickets: they ought always to have them at hand, and to exhibit them to the agents of police when required. If the women lose their tickets they must apply for fresh ones.

8. Any common woman, in a house or at large, who wishes to change her residence will be required previously (1)

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INSCRIPTION
OF COMMON
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to make a declaration to the dispensary official who will at once give information to the Police Division; and (2) to have her ticket examined (*viser*) both by the commissary of the quarter she is leaving, and by that of the quarter she is going to reside in.

She will then be subjected to an extra-ordinary personal examination. This change of residence must not take place more often than twice a month unless for a reason for which the woman herself is not accountable.

The declaration above mentioned to be made by common women does not relieve persons who lodge them from the duties which the police regulations of the 13th of October, 1831, cast on all letters of apartments.

9. Women in a house will be at all times free to leave it, provided they comply with the directions in the preceding article.

The keeper of a brothel who is convicted of having placed any obstacle in the way of a woman's leaving it will be liable to the extreme penalty hereinafter mentioned and may further, and nevertheless, incur a still more serious prosecution in case of fraudulent or illegal detention.

10. Women at large are distributed into four classes.

They will pay at each medical examination (*visite*):—

Those of the 1st class	.	40 centimes (3 $\frac{3}{4}$ pence).
„ 2nd „	.	30 „
„ 3rd „	.	15 „
„ 4th „		are exempt from payment.

This last class includes all prostitutes over 40 years of age, and one who is the mother of one or more children under her own charge.

11. No woman at large may reside with a retailer of drink.

12. The ticket mentioned in Article 6 must be paid for by the women at the following rate:—

By those of the 1st class	.	fr.1 c.50 (1s. 1d.)
„ 2nd „	.	c.75 (7d.)
„ 3rd and 4th class		c.25 (2 $\frac{1}{2}$ d.)

13. When a registered woman wishes to be dismissed

from the register, she must present a request to the College of Burgomaster and Aldermen which will make an order suitable to the case. APPENDIX.

Dismissal from the register will take place as of course in case of death or marriage. DISMISSAL
FROM RE-
GISTER.

14. Dismissal must be of such a kind as to ensure the disappearance of every trace of inscription.

SECTION II.—*Of Brothels and Accommodation Houses.*

15. Two classes of houses for prostitution may be tolerated. BROTHELS.

- (1) Brothels where common women have a settled residence.
- (2) Accommodation houses where prostitutes at large are admitted.

16. Each class of houses will be divided into three subordinate classes.

17. No brothel nor accommodation house can be established without the authorisation of the College of Burgomaster and Aldermen. The authorisation so given is essentially precarious in its tenure, and is revocable.

Brothel-keepers may not underlet apartments in their houses.

Tenants of accommodation houses must only underlet apartments in their houses to women provided with a licence ticket (*carnet*) and regularly undergoing sanitary examinations.

In no case will any one be allowed to keep simultaneously a brothel and an accommodation house.

Brothels and accommodation houses must have above their entrance gate a round, coloured, glass lamp. The diameter of the lamp and the colour of the glass for each class of houses will be designed by the College of Burgomaster and Aldermen (*see p. 275*).

18. Anyone who requires an authorisation to set up a house for prostitution must indicate whether it is to be a brothel or an accommodation house, and designate the subordinate class in which the house is to be ranked in con-

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formity with Article 15. The request will imply, further, a submission to the duties imposed by those regulations and to the measures which the College may take to ensure their execution.

19. No woman under the control of a husband will be authorised to open a brothel or an accommodation house without the written assent of her husband.

20. An authorisation to keep a house for prostitution does not pass to the heirs or personal representatives of those who originally obtained it without the previous consent of the College of Burgomaster and Aldermen.

21. No brothel nor accommodation house may be set up in a frequented street or in the proximity of educational or public institutions, or buildings sacred to religious worship.

22. Neither prostitutes at large nor others are permitted to exhibit themselves at the windows or doors of brothels or accommodation houses. The windows of the houses must at all times have window blinds or thick curtains constantly closed.

23. Free entry to the brothels or houses of accommodation must be allowed to the agents of police at all hours of the day or night.

24. Whenever information as to the existence of a house for clandestine prostitution is brought to the College of Burgomaster and Aldermen, the College will cause an administrative enquiry to be set on foot to ascertain the facts, and, if occasion arises, will direct the inscription of the women resident on the premises as prostitutes.

The keeper of the house will be summoned before the Courts.

25. Brothel keepers must not admit a common woman into their house without the previous declaration having been made at the dispensary.

26. Keepers of accommodation houses must receive in their houses none but women regularly subjected to sanitary examination and provided with tickets.

27. Keepers of brothels and accommodation houses must furnish the police with their first and second names, and the age of the women employed as servants on the establishment,

and these, if under 50 years of age, will be subjected to sanitary examination.

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When a brothel or accommodation house is conducted by an unmarried woman or a woman not under the control of a husband, she also will be subjected to sanitary examination up to the age of 50.

28. In every brothel a register must be kept, numbered and signed by the sanitary inspector.

The keeper of the house must enter upon it the first and second names, the age, place of birth, and of last domicile, of every woman resident in the house, the date of her entrance and departure, as well as a note of the place she announces she is repairing to when taking leave. When the keeper of a house wishes to send a woman away or when she herself desires to change her abode, he must give immediate notice at the dispensary and state, at the same time, the place to which the woman shall have announced her intention of repairing.

29. Any woman found in an accommodation house or a brothel without a regular ticket, or without having made the declaration and undergone the inscription prescribed by Articles 25 and 26 will be liable to the penalties imposed by section V.

30. Women attached to a brothel must be lodged, fed, clothed, and entertained at the expense of the keepers of the house at which they reside.

When a woman enters a house the keeper of the house must prepare an inventory of the articles of apparel she brings with her; this inventory must be examined (*visé*) by the commissary of police within forty-eight hours.

These articles shall, during the sojourn in the house, be only used for such purposes as she assents to. They must be given up to her on her departure, as well as whatever she may have acquired out of her profits. This property of hers must be, within twenty-four hours, entered on the same inventory and submitted to the same *visa*.

31. A payment must be made by all keepers of brothels and houses of accommodation, the profits of which will be

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devoted to covering the expenses entailed by the sanitary measures resorted to.

32. The payment referred to in the preceding Article will be distributed as follows :

Brothel keepers will pay, in advance and without a right to recovery under any circumstances, into the hands of the Receiver of the Commune, every month :

Those of the 1st class, for 6 women	... fr.	60 00—£2 8s.
„ „ 7	„	„ 68 00
„ „ 8	„	„ 74 00
„ „ 9	„	„ 76 00
„ „ 10	„	„ 78 00

and two francs more in addition for every woman in excess of that number.

Those of the 2nd class, for 3 women	... fr.	21 00—16s. 8d.
„ „ 4	„	„ 26 00
„ „ 5	„	„ 29 00
„ „ 6	„	„ 31 00
„ „ 7	„	„ 32 00

Those of the 3rd class, for 3 women	... fr.	8 00—6s. 4d.
„ „ 3	„	„ 11 00
„ „ 4	„	„ 13 00
„ „ 5	„	„ 14 50
„ „ 6	„	„ 15 50
„ „ 7	„	„ 16 50

one franc more for each additional woman in the case of the two last classes.

The keepers of accommodation houses will pay monthly :

Those of the 1st class fr.	25 00—£1
„ 2nd	„	„ 15 00
„ 3rd	„	„ 5 00

These payments must be made in the same way as those to be made by the brothel keepers.

SECTION III.—*General Police Regulations.*

33. Common women are expressly forbidden—

1° To go out in an indecent or an intoxicated condition.

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2° To exhibit themselves at the doors and windows of their houses.

GENERAL REG-
ULATIONS.

3° To stop and form themselves into groups in the streets or in public spaces and promenades.

4° To commit any sort of scandalous act in a public thoroughfare, or to allow obscene proposals to be made there.

5° To accost or to follow men in a public thoroughfare, or to invite them to their houses, even by signs.

6° To walk up and down in the Park.

7° To be found in a public thoroughfare after the bell has sounded for retiring (*après la cloche de retraite*).

And 8° to occupy at theatres, circuses, concerts, or public entertainments, any other place than those assigned them by the police.

Sanitary Regulations.

34. Common women will be subject to two sanitary examinations a week.*

SANITARY RE-
GULATIONS.

A woman at large who appears punctually for four consecutive weeks will be entirely discharged from liability to pay the tax. A woman who is unpunctual will be liable to pay a double tax for each offence; she may, further, be sentenced to imprisonment from one to five days.

35. Women attached to brothels of the first and second classes will be medically examined at home, unless the College of Burgomaster and Aldermen otherwise directs.

* At the International Hygienic Congress held at Brussels in October 1876, Dr. Janssens, head of the Brussels Dispensary, spoke of the results obtained in the brothels of that city where "the examinations took place every day" (*la visite est journalière*). See *Le Bulletin Continental*, Oct. 1876, p. 88.

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GULATIONS.

Women attached to brothels of the third class and women at large will be examined in the dispensary assigned for the purpose.

Nevertheless women at large may, if they please, be examined at their own homes, provided they pay at once the price of four examinations, at the rate of a franc for each examination, the usual payment being therein included.

36. The dispensary offices will be open every day, with the exception of Sundays and fête days, from nine in the morning till three in the afternoon.

The sanitary examinations will take place from eleven in the morning till two in the afternoon.

37. The Sanitary Department (*service*) will be provisionally entrusted to three doctors ; two of these, who have to conduct the examinations, will be termed " Medical Inspectors ;" the third will be styled " Controlling Inspector."

38. The doctors who are charged with the sanitary duties must on all occasions, and in respect of all persons, perform their task ; if it is impossible, they must make arrangements, with the assent of the College of Burgomaster and Aldermen, for substitutes being provided.

39. The Medical Inspectors will undertake alternatively for a month, one of them, the attendance on women at large, the other of them, that of women attached to a house.

40. The doctor who has to attend on women at large must be present at the dispensary every day from eleven o'clock in the morning till two in the afternoon in order to conduct the ordinary and extra-ordinary examination of women who may present themselves.

41. The Controlling Inspector must satisfy himself by counter-visits made, at least, once a fortnight, that the examinations have been made with all the care that the public health claims.

He must daily watch over the examinations made at the dispensary, and correspond with the College on all administrative matters.

42. Doctors are expressly forbidden to receive any payment or emolument in respect of their sanitary functions,

either from the keepers of brothels or accommodation houses or from common women. APPENDIX.

They are also forbidden to tend at their homes brothel keepers, their servants, or the women on the premises, under whatever malady they may be suffering. SANITARY REGULATIONS.

43. The doctor must mark on the ticket of common women the day and hour of every examination.

He will, further, keep note on the registers deposited at the dispensary and at every brothel of the condition of every woman examined, whether healthy, diseased, or doubtful, and also of all breaches of the sanitary regulations.

These declarations must be authenticated by the doctor's signature.

44. Any woman found to be affected with a syphilitic, or with any other contagious, disease must be at once sent to be put under treatment. If any woman's case is doubtful she must be sent to be put under observation till her condition of health or of disease is clearly established.

45. So soon as the cure of a common woman is complete enough to entitle her to go abroad, she will be at once set at liberty. Her former ticket will be returned to her unless she prefers taking out a new one.

46. Common women and the keepers of brothels and accommodation houses are bound to obey the orders of the doctors.

Those who insult the doctors in any manner whatever may be arrested at once and taken before a police officer; they will be punished in conformity with the provisions in Article 49.

Any prostitute convicted of resorting to any *ruse* or fraud to deceive the doctors as to her state of health will incur the highest penalty which can be inflicted by the police.

47. Keepers of brothels are responsible for the punctual attendance at the medical examinations of women under their control.

48. Keepers of brothels and of accommodation houses must conform to the directions laid down by the College of Burgo-master and Aldermen, in respect of precautionary measures

APPENDIX. for the protection both of the women and of those who are admitted to their company.

SECTION V.—*Penalties.*

PENALTIES. 49. Independently of, and without prejudice to, the penalties imposed by the Penal Code and by general and local police laws and regulations, breaches of these present regulations will be punished by a fine of from fr. 5 to fr. 15 or by imprisonment of from one to five days, or by such fine and imprisonment cumulatively, according to the circumstances and gravity of the case.

In case of relapse the heaviest and the cumulative penalty will always be imposed.

Further, the College may always suspend or revoke the order by force of which the brothel or accommodation house is tolerated.

SECTION VI.—*General Directions.*

GENERAL DIRECTIONS. 50. The present regulation is to be published and placarded with the customary formalities.

Copies of it are to be forwarded to the permanent Committee of the Provincial Council for their approval, and to the offices of the Tribunals of First Instance and of Justices of the Peace.

Keepers of brothels and accommodation houses are held responsible for taking care that copies of these regulations are at all times posted in every room in these houses.

The copies must be placed under glass, in a frame, and hung up in such a way that they can be easily read.

Temporary Order.

51. The keepers of brothels or accommodation houses are required to apply, in the course of the month succeeding the publication of this regulation and in the form prescribed by Article 17, for a fresh authorisation under pain of forfeiture

and without incurring any the less the penalties mentioned in APPENDIX.
this regulation.

Made at a session of the Communal Council at Brussels,
the 18th of April, 1844.

The Burgomaster,
CHEVR. WYNS.

By the Council,
The Secretary,
WAEFELAER.

Examined, and approved by the permanent Committee
(*Deputation*) of the Provincial Council.

Brussels, the 24th May, 1844.

The President,
BON. DE VIRON.

By Order,
The Clerk of the Province,
DU CHENE.

Published and posted at Brussels, the 1st of July, 1844.

The Secretary of the City,
WAEFELAER.

ORDERS OF THE COLLEGE OF BURGOMASTER
AND ALDERMEN FOR CARRYING OUT THE
POLICE REGULATIONS ON PROSTITUTION OF
THE 18TH OF APRIL, 1844.

The Burgomaster and Aldermen,

In consideration of the ordinance of police concerning ORDERS OF
prostitution introduced by the Communal Council on the COLLEGE OF
18th of April, 1844, and approved by the Committee at the BURGOMASTER
Provincial Council on the 24th of May following: AND ALDER-
MEN.

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LATIONS.

With a view to prescribing the course of action needed to carry that ordinance fully and completely into effect through the adoption of measures authorised by law, and yet which are not of a kind to appear in a regulation which is to be made public (*soumis à la publicité*) :

In consideration of Articles 90 and 96 of the Communal Law of the 30th of March, 1836 :

Decree :

SECTION I.—*Of Common Women, their Inscription on the Register and their Dismissal from it.*

INSCRIPTION
OF COMMON
WOMEN.

1. The inscription of common women shall be made in registers according to the appended forms A. and B.

2. Every inscription, whether voluntary or official (*d'office*), must be certified in a report (*procès-verbal*) prepared by the dispensary official, and mentioning that the registered woman has had an opportunity of reading the articles of the regulation which concern her.

3. Any girl or woman who shall be informed against as surrendering herself clandestinely to prostitution must be summoned to the police office to have her case heard, and, if need be, must be called upon to produce evidence in exculpation.

The official reports and communications respecting her, as well as her written answers, must be forwarded to the College of Burgomaster and Aldermen, which will direct, if need be, her inscription as of course (*d'office*) on the roll of common women.

In this last case, notice of the decision of the College must be given to the woman within twenty-four hours by the hands of the police charged with the department of prostitution (*chargé du service de la prostitution*).

4. Every woman registered as of course (*d'office*) must at once attend at the dispensary to receive there her ticket, and undergo a first medical examination. If she is suspected of being affected with a contagious disease she may be taken to the dispensary as soon as the College has announced its decision.

5. Any unregistered woman found in the act of publicly surrendering herself to prostitution must be at once arrested and taken to the police-office to be interrogated. If occasion arises, she may thereupon be sent on to the dispensary to undergo a medical examination; in this case the officers or agents of police will prepare a detailed report of the circumstances which have been the ground of her arrest, and in other respects the woman shall be dealt with as under the above Articles 3 and 4, unless she herself requests to be inscribed on the roll of prostitutes.

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BURGOMASTER
AND ALDER-
MEN.
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LATIONS.

6. The tickets delivered to common women must in all respects correspond with the forms C. and D. hereinafter appended. When a registered woman changes her class, she will have a new ticket delivered her.

7. Every woman who presents herself for inscription will be interrogated. The dispensary official will inform himself with the utmost attainable accuracy of her full name, age, place of birth, last domicile, and the causes which have led her to surrender herself to prostitution.

INSCRIPTION.

8. When a woman who applies for inscription intimates that her intentions are good (*annoncera de bons sentiments*), or only requests to be registered for a reason independent of her own will, the dispensary official must ask her questions as to the circumstances of her family, and at once inform the divisional police.

The police must, in such a case, inform the parents of the young woman of her request to be registered, and point out to them, if occasion calls for it, the means they may adopt to turn her from a course of vice.

9. In conformity with Article 10 of the Regulation of the 18th of April, 1844, women at large are distributed into four classes. The classification must be made with reference to the age and circumstances of each woman.

SECTION II.—Of Brothels and Houses of Accommodation.

10. The lamp which those who keep houses for prostitution must place above their entrance gates must be red for brothels,

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AND ALDER-
MEN.

ORDER FOR
CARRYING OUT
POLICE REGU-
LATIONS.

and yellow for accommodation houses. They must be, in each case, thirty centimeters in diameter.

These lamps must be punctiliously lighted from the commencement of twilight till the retiring bell (*cloche de retraite*) sounds.

11. The two classes of houses for prostitution are to be divided each into three sub-classes as follows, that is to say :—

BROTHELS.

BROTHELS
CLASSIFIED.

The first-class will comprise houses where a woman's company is paid for at the rate of five francs and over.

The second-class, those where the payment is from two to five francs.

The third-class, those where the payment is less than two francs.

ACCOMMODATION HOUSES.

ACCOMMODA-
TION HOUSES
CLASSIFIED.

The first-class will comprise houses where the payment for entrance is two francs and over.

The second-class, those where the payment is from one to two francs.

The third-class, where the payment is less than one franc.

12. Any one who applies for an authorisation to set up a house for prostitution must, besides indicating the class in which he wishes his house to be ranked, notify the price he intends to exact.

Information against keepers of brothels and accommodation houses who shall have been proved to have exacted too high a price must be given to the College, which will take, in respect of them, such administrative steps as the case shall call for.

BROTHELS.

13. Brothels and accommodation houses must be kept in a constant state of decorum and, as far as possible, every common woman shall have a private room in which all that decorum calls for shall be ready to her hand.

14. In every room of a brothel and accommodation house into which men are admitted there shall always be at hand :—

- 1°. A bottle containing a solution of caustic soda (1 APPENDIX.
partie de lessive de soude a 35° sur 20 d'eau
distillée). ORDERS OF
COLLEGE OF
BURGOMASTER
AND ALDER-
MEN.
- 2°. A bottle of fresh oil, legibly marked outside.
- 3°. White linen and two vessels of fresh water. ORDER FOR
CARRYING OUT
POLICE REGU-
LATIONS.

SECTION III.—Of Sanitary Examinations.

15. The dispensary official must prepare in advance, and on separate leaves, the list of the women who ought to present themselves each day for medical examination. SANITARY
EXAMINA-
TIONS.

The doctors must write on it the result of their inspection (*explorations*); after which the list must be forwarded to the divisional police.

16. Every common woman who neglects to appear for sanitary examination must be at once arrested and taken to the dispensary, without her thereby escaping the penalties mentioned in the 34th Article of the Ordinance of the 18th of April, 1844.

17. The medical examinations must be made with the utmost care; the doctors will employ for this purpose the instruments customarily used in the surgical profession.

18. The doctors must make extra-ordinary examinations as often as they are required, whether by the keepers of houses who are uncertain about the health of their women, or by the police, or, in any circumstances, in which they suspect a woman is affected with a contagious disease.

19. Whenever the doctors find it necessary to send a woman from a tolerated house to a hospital, the keeper of the house must have her taken there at once in a carriage.

SECTION IV.—General Directions.

20. All conveyance of common women—both to the dispensary and from thence to the hospital—must be by a carriage.

21. Frequent visits must be paid to brothels and houses of accommodation by the police agents, to ascertain if the

APPENDIX.
ORDERS OF
COLLEGE OF
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LATIONS.

keepers of the house comply precisely with the terms of the regulations.

22. Immediate provision will be made for nominating an official to take charge of the correspondence between the office and the dispensary.

This official will, at the same time, be required to collect the payments exacted from the keepers of houses for prostitution and from common women at large.

Every month he will give in an account of his receipts to the College of Burgomaster and Aldermen who will give directions for its being paid in to the town receiver.

23. A copy of this decree will be supplied to every keeper of a house for prostitution, who will be held liable to comply with its provisions under the penalties mentioned in the Ordinance of the 18th of April, 1844.

Decreed at a session of the College, at the Hôtel-de-Ville, Brussels, on the 5th of July, 1844.

The Burgomaster,
CHEV^R. WYNS.

The Secretary,
WAEFELAER.

PARIS.

—o—

Mr. Acton says (p. 100) that “the great object of the system adopted in France is to repress private or secret and to encourage public or avowed prostitution.” A general view of the relations of law to prostitution in France may be obtained from the following extract from the latest edition of M. Dalhous’s ponderous and voluminous work entitled “*Répertoire Méthodique et Alphabétique de législation, de doctrine, et de jurisprudence*,” under the head “*Prostitution* :”—

APPENDIX.

EXTRACT FROM
M. DALHOUS’S
REPERTOIRE
ON “PROSTITUTION.”

“There is no special legislation with respect to the disciplinary regulations imposed on prostitutes and on the mistresses of licensed houses in respect of reprehensible conduct, and of offences committed in the very exercise of prostitution, and which are not provided against by article 330 and the following articles of the penal code”—[merely repressive of offences against the young, against marriage, and the like]—“and which could not be brought under the jurisdiction of the tribunals without the scandal occasioned by the trial and by the notorious publicity of such investigations gravely violating public decency and morals.” “But it is evident that the supreme law of order and of public morals invests the administration with very extended powers of repressing offences of the nature of those mentioned when committed by prostitutes; and that the disciplinary regulations imposed on them are left to be devised at their arbitrary will by the administrative authorities, who, at the same time, are bound to comply with the duties which humanity imposes, and to abandon as little as possible the principles of individual liberty, which are the basis of our political constitution, and here undergo a necessary exception. It might perhaps be desirable that an Act of the Legislature should lay down general rules with respect to this subject, which concerns

APPENDIX.

M. LECOUR.
ON THE
HISTORY OF
THE SYSTEM
IN PARIS.

“ public order under so many aspects. Imprisonment seems
“ to be the only disciplinary instrument which can be [now]
“ employed in respect of prostitutes.”

In a very interesting chapter of his work on “ Prostitution
“ in Paris and London ” (Chapter VII., “ Des Phases diverses
“ sur la Réglementation ”), M. Lecour shows exactly how
the existing practice came into being through the successive
decrees (*arrêtés de police*) of one prefect after another ; and
to understand the system properly this historical view of it
should be mastered. It seems to have been M. Delavau, in
1823, who first clearly laid down the police policy with re-
spect to prostitution and brothels, which has never since been
departed from. M. Lecour, in speaking of the decree of M.
Delavau says—“ One could not better define the action of the
“ police in respect of prostitution than M. Delavau has
“ done in this circular, in which one sees the desire peeping
“ out which never has been realised, and yet is perpetually
“ cherished by the administrators of every age—namely, that
“ of confining public profligacy to houses tolerated for this
“ end only.” In April, 1830, a decree of M. Mangin for
the first time attempted to enforce general regulations on
prostitutes for the purpose of absolutely preventing solicitation
of any sort in the public streets, or even the passing of women
from one *maison de tolérance* to another in the course of the
evening. The events of July caused some interruption in
the effort to carry out this repressive policy, and it was not
till 1841 that M. Delessert issued a complete body of instruc-
tions for the guidance of the police, which, M. Lecour says,
are executed at this day in the spirit in which their author
intended they should be.

So far as the successive decrees of prefects of the police have
been finally embodied in a formal legislative shape, they may
be arranged under the three distinct heads of—(1) regula-
tions for the guidance of the police in making arrests and
enforcing other regulations ; (2) regulations imposed on regis-
tered women for the purpose of restricting them in respect of
time, place and deportment ; and (3) regulations imposed on
the mistresses of licensed houses. A further class of regulations
relates to hospitals, of which a specimen will afterwards be

given from those in use in the Venereal Hospital at Marseilles. There are also the regulations for the creation and control of the medical staff. The following regulations are collected from Parent-Duchâtelet, T. II., p. 231; Jeannel, pp. 318 and 343; Lecour, Ch. VII.; and Acton, p. 105 s. q. They have never been systematically codified as at Brussels.

APPENDIX.

(1).—*Regulations which determine the General Duties of the Police.*

“The Inspectors charged with the supervision of unregistered prostitutes ought to act with the greatest circumspection in respect of those they meet on the public thoroughfare, and follow them into licensed houses, or into the abodes of registered prostitutes, with the view of only going the length of making an arrest when doubt as to their habits is no longer possible.

GENERAL
DUTIES OF THE
POLICE.

“There will be no occasion to proceed to the arresting of an unregistered prostitute in a public place open to prostitution unless there are signs of a penal offence having been committed, or there is an admission on the part of the woman, or of the man found with her, that solicitation to a guilty act proceeded from the woman.

“The inspectors must not proceed to arrest on the public thoroughfare an unregistered woman whom they could not surprise (*surprendre*) in one of the situations above described unless prolonged observation puts them in possession of facts of a precise kind, whether it be that a seizure is made at the moment a woman is leaving a place used for purposes of prostitution, or while she is walking about with registered women, or is occasioning public scandal by her solicitations.

“The inspectors will always, with respect to these women, behave with the propriety which the dignity of the public service inculcates, taking care, nevertheless, to secure legal evidence of any acts of outrage or violence to which they may be exposed, and abstaining absolutely from all resort to surprises (*tout moyen de surprise*), or to bribery.

“In whatever circumstances women are arrested, they must be conducted immediately before the commissary of

APPENDIX.

GENERAL
DUTIES OF
POLICE.

“ police of the section where the arrest took place, so that an inquiry into the case may be instituted without delay.

“ In a capital city, which contains numberless elements of disorder, the supervision called for by the fact of prostitution often brings to light vices which, contrary as they are to good morals, cannot be considered acts of prostitution, nor give occasion for the measures of which those alone are the appropriate objects.

“ Thus it comes about that married women and young girls, in whom every sentiment of decency is not extinct, blinded by a guilty passion, surrender themselves to men versed in enterprises of gallantry, who lead them without their knowing it into asylums of vice. In such a case no delay must be encountered, which might have the most disastrous consequences for those whose errors would be discovered by their prolonged absence, while morality would gain nothing, and the quiet of family life would be seriously disturbed.

“ Every woman who notoriously gives herself to public prostitution is reputed a common woman” (*fille publique*), and registered as such, either at her request or as matter of official routine (*inscription d'office*).

“ Registration consists in inscribing on a particular register the first and second names of the woman, her age, country, domicile, previous occupations, and the reasons which have induced her to have recourse to prostitution. Previous to registration she is made acquainted with the regulations applicable to ‘ common women.’

“ The registration is almost always voluntary*; ‘ official’ registration only takes place in respect of the small number of women who, openly given up to a life of vice, already often arrested for acts of prostitution, or affected with contagious diseases, refuse to submit themselves to the regulations which the public authorities are bound to enforce in the interests of order and of public health.

“ Common women, on registration, are divided into two classes—‘ isolated’ ones (*isolées*), that is, those who have a private abode, whether taken on lease or for a short period, or merely furnished rooms, and those who live in a licensed

* Compare Dr. Jeannel on pages 71 and 201.

“house (*filles de maison*’). At the time of registration the
 “women signify the class they wish to belong to, and can
 “subsequently pass from one class to the other on making a
 “declaration provided for the purpose.”

APPENDIX.

2. Regulations imposed on the Women themselves.

As to women living by themselves—

REGULATIONS
IMPOSED ON
THE WOMEN.

At the time of the registration of each a card is given her, containing on one side a list of the regulations binding upon her, and upon the other, her name, abode, number in the register, and a list of the months of the years in one column, followed by four blank columns, the first and third column to be filled in by the inspecting surgeon with the date of the first fortnightly and the second fortnightly examinations respectively, and the second and fourth column with the results of the examinations on each occasion marked by the letter M (diseased), or S (healthy).

The regulations on one side of the card are as follows :—

“Common women *en carte*” (that is, not living in licensed houses) “are bound to present themselves for examination at the dispensary once at least every fifteen days.

“They are directed to exhibit their card whenever required by police officers and agents.

“They are forbidden to practise solicitation” (*provoquer à la débauche*) “during the day, or to walk in the public thoroughfares till half-an-hour after the time fixed for the lamps being lighted, or, at any season, before seven o’clock in the evening, or to remain there after eleven.

“They ought to be simply and decently clad, so as not to attract attention by the richness, striking colours, or extravagant fashion of their dress.

“They must not dress their hair in such a way as to dispense with other covering” (*La coiffure en cheveux est interdite*) ; “they are strictly forbidden to speak to men accompanied by women or children, or to address loud or persistent solicitations to any one. They must not, at any hour, or under any pretext whatever, exhibit themselves at their windows, which must be kept constantly closed and provided with curtains.

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IMPOSED ON
THE WOMEN.

“ They are strictly forbidden to take up a station in a public thoroughfare, to form themselves or to walk about in groups, to pass up and down in too narrow a space, or to allow themselves to be followed or accompanied by men.

“ The neighbourhoods of churches and sacred buildings within a radius of twenty-five yards, covered passages, the boulevards of the Rue Montmartre up to the Madeleine, the gardens and approaches of the Palais Royal, of the Tuileries, the Luxembourg, and the Jardin des Plantes, are forbidden to them. The Champs Elysées, the esplanade of the Invalides, the old external boulevards, the quays, the bridges, and, generally, lonely and obscure places, are equally forbidden to them.

“ They are expressly forbidden to frequent public establishments or private houses where clandestine prostitution might be facilitated, or to attend *tables d'hôte*, or reside in boarding-houses, or to engage in their trade outside the quarter of the town they reside in.

“ They are likewise forbidden to share their lodgings with a woman living in concubinage, or with any other woman, or to reside in furnished lodgings at all without a permit.

“ Common women must abstain, when at home, from everything which can give ground for complaints on the part of neighbours or passers-by.

“ Those who infringe the above regulations, who resist authorised agents, who give false names and addresses, will incur penalties proportioned to the gravity of the case.”

These instructions will be found to follow almost word for word the decrees of M. Mangin on the 14th April, 1830, and of M. Delessert in 1841 (Lecour, pp. 109, 112).

The regulations which apply to women living in licensed houses are addressed rather to the keeper of the houses than to the women themselves directly. According to the decree of 1841, “ Mistresses of houses are held responsible for all breaches of the regulations which they are in a position to prevent.” Thus the regulations attaching to women living in these houses, which are, of course, of the same general nature as those attaching to the women who live by themselves, must be sought for under the next head.

3. *Regulations imposed on the Mistresses of Licensed Houses.*REGULATIONS
IMPOSED ON
MISTRESSES
OF LICENSED
HOUSES.

“ Women who keep tolerated houses, and who are called
 “ *maîtresses de maison*, cannot do so without the consent of
 “ the authorities, which can only be obtained on the produc-
 “ tion of the written consent of the proprietor of the house
 “ where they purpose establishing themselves ; and if they
 “ are married, they must have the consent of their husbands.

“ For reasons of propriety these houses must be distant as
 “ far as possible from churches and sacred buildings, from
 “ national palaces, monuments, government offices and esta-
 “ blishments, and educational institutions.

“ In the interest of the neighbours, the windows of these
 “ houses must have double curtains in the inside, and on
 “ the outside be latticed and locked, the glass being frosted.

“ The mistresses of the houses are responsible for disorders
 “ which take place, either inside or outside of the houses, if
 “ caused by the women who lodge in the houses, or whom
 “ they admit temporarily.

“ The following form of licence is given to each mistress
 “ at the time of registration :—

“ Name.....

“ Address.....

“ Enrolled at page of the register of mistresses of
 tolerated houses.

“ General duties imposed.

“ Mistresses of licensed houses are bound to have regis-
 “ tered within twenty-four hours at the administrative de-
 “ partment of the dispensary of health women who present
 “ themselves to take up their abode in their houses.

“ When a woman inscribed on the book of the mistress
 “ of a house is about to leave her house, the latter is bound,
 “ within twenty-four hours, to make declaration of the fact
 “ at the same office.

“ When the reception or the departure of a woman takes
 “ place on the evening preceding a day the afternoon of
 “ which is a holiday the mistress of the house is to make
 “ the declaration in the forenoon of the following day.

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REGULATIONS
IMPOSED ON
MISTRESSES
OF LICENSED
HOUSES.

“ Mistresses of houses are to keep their windows constantly closed, and to have them frosted, or fitted with venetian shutters closed with a fastening.

“ Those who are entitled to send out women, and to station a domestic at their door, are not to permit them to go out until half-an-hour after the time fixed for commencing the lighting of the street-lamps, nor, at any time of the year, before seven o'clock in the evening; and they are to see that they return by eleven o'clock.

“ They are to take care that the women dress decently, and are to prohibit them from alluring to debauchery by indecent gestures or words, from frequenting taverns and becoming intoxicated, from taking up their station in the public thoroughfare, forming groups in the streets, or promenading in company.

“ When, in the interval between one medical examination and the succeeding one, they discover that a girl is attacked with a contagious disease, they are immediately to conduct her to the medical office.

“ It is expressly enjoined on them to give information without delay (independently of the information to be given to the commissary of police) to the head of the active service of the dispensary, concerning every kind of proceeding which may take place within their house, or outside of it, on the part of the women who reside there.

“ They are forbidden to receive minors and the pupils of colleges, and of national schools, civil or military, if in uniform.

“ As mistresses of houses in the suburbs and out of the way places are forbidden to allow their women to promenade on the public thoroughfare, they must take care that these never absent themselves without a plausible reason.

“ The entrance doors must remain constantly closed. It is forbidden to exhibit glasses, bottles, flagons, or other objects, as a sign that drink is provided.

“ This prohibition applies to tolerated houses in Paris which have refreshment shops in connection with them.”

Other regulations are that the mistresses must lodge no more inmates than they have distinct rooms; that they must keep no child above four years old on the premises; that

they must place no person at their door as a sign of their business before seven or after eleven p.m.; that they may not send abroad more than one woman each at one time. (See Acton, p. 108.)

APPENDIX.

The following regulations relate solely to the organisation and direction of the medical service :

ORGANIZATION
OF THE
MEDICAL
SERVICE.

“The medical staff of the dispensary is composed as follows :

“Physicians in ordinary, 16 ; Physicians supernumerary, 4.

“The service is apportioned in the following manner :—

“One head physician, who is charged with the direction of the service, and with the correspondence with the chief of the Department of Morals, or with the chief clerk, who represents the prefect.

“Fifteen physicians in ordinary ; the twelve senior of these are charged with the examinations in the dispensary, and with the weekly examinations in the licensed brothels comprised within the limits of Paris ; the three juniors are charged with the weekly examinations in the licensed brothels in the suburbs.

“For the examinations at the dispensary six physicians are in attendance daily, and take their turns by two and two for three terms of an hour and a-half ; that is to say, the service of the dispensary demands of each physician no more than three attendances of an hour and a-half in each week.

“For the visits to the licensed brothels, the city is marked out into twelve equal divisions ; one physician is charged to make the weekly examinations in each division in quarterly rotation, so that each returns to the same division only at the end of twelve quarters or three full years.

“The suburbs are arranged in three divisions ; the physicians charged with the sanitary examinations in the licensed brothels in the larger and more remote of these divisions are relieved from all other duties.

“The four supernumerary physicians are reserved for the supply of the various services in the absence of the physicians in ordinary. The head physician is chosen by the prefect ; he may hold the office even without being on the list of physicians in ordinary.

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"The supernumerary physicians are nominated by the prefect; they become physicians in ordinary as vacancies occur in the order of seniority."

The general character of the French method of working the system, and its legal basis, will be better understood from the elaborate judgment of M. Ch. de Bourbonne, of Rheims, which will be found further on, in connection with the regulations as in force in that city.

COMMISSION
ISSUED BY THE
PARIS MUNI-
CIPAL COUNCIL.

The following terms of a Commission which was finally appointed on December 11th, 1876, by the Municipal Council of Paris, for the purpose of ascertaining the legal basis of the Parisian system, and of making recommendations accordingly, are instructive in reference to the general uncertainty in which the legal justification of that system is confessedly shrouded at present.

"Considering that the Municipal Council cannot avoid the question of the *police des mœurs*, which is a question of such grave importance to the security of the Parisian population ;

"Considering that it has the right to control the services for which it pays, and to study the ameliorations which they may require ;

"Considering that the acts of the *police des mœurs* are not authorised by any law, and that they lead to the daily perpetration of crimes punished by the penal code ;

"Considering that, if at present it is difficult to propose to the Municipal Council to refuse the money required for the *police des mœurs*, it is, on the other hand, indispensable that reforms be made in the said service ;

"That a commission of twelve members be nominated by the Council at its next sitting to study the service of the *police des mœurs*, and to propose either its suppression or such reforms as it requires."

It may be noticed that when the resolution in favour of the Commission was carried, the Prefect of Police objected that the Municipal Council had no jurisdiction in the matter, and had no right to express an opinion, and he signified his

determination to bring the question before the Minister of the Interior. In consequence, at the meeting of the Municipal Council on December 8th, he laid on the table an order, signed by Marshal Mac Mahon, annulling the appointment of the Commission, because of the indirect imputations on the conduct of the police which the introductory sentences of the resolution contained. The Municipal Council, however, would not give up the course which they had begun, and they passed a resolution, in place of that annulled, providing simply for the nomination of the Commission, without giving any reasons for its nomination. The Prefect of Police again declared his intention, if they proceeded, once more to bring the matter before the Minister of the Interior, but the Council proceeded at once to the nomination of the twelve members; the appeal of the Prefect of Police to the Government was unsuccessful in farther stopping proceedings; and the Commission appointed M. Herisson, President of the Municipal Council, as its President, and M. Yves Guyot, as its Secretary.

APPENDIX.

RECENT PROCEEDINGS IN THE TOWN COUNCIL.

It is interesting to notice that M. Yves Guyot was connected with the *Les Droits de l'Homme* newspaper and, in that capacity and as contributor to the paper, was sentenced in the previous month (November, 1876) to imprisonment for six months and a fine of 3000 francs for a series of articles reflecting on the conduct of the *police des mœurs* in respect of certain recent notorious cases of abuse, and, more especially, for bringing police functionaries into contempt by attributing to the police acts done by those who, confessedly, and successfully, personated them.

A similar Commission to the above of a still more authoritative character was recently appointed by the Italian Government.

RHEIMS.

—o—

APPENDIX.

The present state of the law in Rheims has lately (October, 1876) been brought into relief by an appeal from a judgment pronounced by the magistrates in the case of two women who had refused to submit to the sanitary inspection. The magistrate, M. de Bourbonne, who was chiefly concerned in drawing up the original judgment, addressed, on the 1st of October, a letter to the *l'Avenir des Femmes* of Paris, of which the following is a translation. It describes on the highest authority the regulations now actually in force :—

“ RHEIMS, October 1st, 1876.

M. DE BOUR-
BONNE ON THE
METHOD PUR-
SUED AT
RHEIMS.

“ Sir,—For a long time past I have studied this grave and important problem, trying to find a solution of it. I have discovered, and I have obtained proofs, that it is the *police itself* which is one of the causes of the depravity and demoralisation of our great cities. If I were to endeavour to lift up a corner of the veil which covers so many shameful infamies in this direction, you would not be able to believe what I told you. Without much education, of a morality at the least doubtful, and in possession of an arbitrary power which is beyond any possible control, the agents of the morals-police are believed upon their simple word, and their reports demand and obtain credence.

“ At Rheims girls are generally inscribed at the age of 16. What can one expect of a girl of that age, who scarcely begins to comprehend her own sensations? Her future is destroyed by the will and power of inferior agents of the administration, and at 20 years of age she is an object of detestation to society, against which she naturally takes a terrible revenge. What contradictions in our laws! A minor girl has no civil rights whatever until her majority ;

“ but when it is a question of morals, which is a graver APPENDIX.
 “ matter, the law is silent for her protection.

“ On the contrary, she is the person injured : they *forcibly*
 “ impose upon her an indelible stigma of infamy : and never-
 “ theless, she is only 16 ; an age at which reclamation is easy.
 “ *And whose is the fault ?* I have endeavoured to make my
 “ feeble voice to be heard in high places. Will it reach them ?
 “ I do not know. In any case, sir, your estimable journal
 “ can render great service to those girls first seduced, then
 “ cast off and abandoned, and arbitrarily placed on the
 “ register of common prostitutes.

“ Believe me, &c.,

“ CHARLES DE BOURBONNE,
 “ Judge of the Peace of the First
 “ Arrondissement of Rheims.”

“ P.S.—As a rule, here is the mode of action when a young MODE OF RE-
GISTRATION
AT RHEIMS.
 “ girl is placed on the register :—

“ 1.—It is done in the name of the Mayor, and by a
 “ warrant supposed to be obtained from him.

“ 2.—But *never* has a Mayor been given time to trouble
 “ himself about it, or to know the why and the wherefore.

“ 3.—He delegates his powers to the Central Commissioner.

“ 4.—The Central Commissioner delegates it to the Chief
 “ of Police, who relegates it to his sub-agent.

“ 5.—Thus you see the screw is driven in. It is the
 “ sub-agent who *decrees*, and everybody, while remonstrating,
 “ says *Amen*.

“ What becomes then of the guarantees of personal
 “ safety of the unfortunate woman, who then cannot defend
 “ herself, and can do nothing but submit.

“ The moral of all this is, that the existing system is vicious,
 “ and that it is full time to reform it. Suppress the cause,
 “ and you will also do away with its effects. It becomes ever
 “ more important for us in these days to return to the
 “ observance of our *common rights*. It is always these
 “ *exceptional* laws which have engendered abuses, and as a
 “ consequence, *revolutions*.

“ CH. DE BOURBONNE.”

APPENDIX.

The following is a literal translation of the judgment above alluded to. It is of the highest interest on many grounds. It propounds the legal theory which is held to be the only support of the licensing system in France. It incidentally criticises that theory on logical and historical grounds, and demonstrates the sorts of police abuses to which the regulation system necessarily paves the way. The judgment has a further interest from the fact that the presiding judge, M. de Bourbonne, was dismissed from office for pronouncing it, on no other ground, it would appear, than because the judgment was unpalatable to the Government, as advocating doctrines of personal liberty and of immunity from police control for which the French Constitution is, as yet, unprepared.

PALAIS DE JUSTICE, RHEIMS, 31st *July*, 1876.

JUDGMENT OF
THE COURT OF
RHEIMS ON
THE LIMITS OF
POLICE
ACTION.

M. de Bourbonne, President ; M. Druelle, Public Prosecutor ;
M. Baudon, Clerk.

The Court delivered the following judgment :—

“Whereas it is the duty of the judge, before touching upon and deciding this difficult and important question of prostitution, to avail himself of all the documents likely to assist him, and even to trace back the course of former times so as to be able to follow and study in all their phases the decrees and ordinances which have been successively made as well as the reasons which have caused their falling into desuetude :

“Whereas this grave question culminates in the primary and inviolable right of personal liberty ; a right which is and always will be the honour and the safeguard of every society :

“Whereas this liberty cannot be alienated save either by judicial authority, or by personal consent or acquiescence, and, save in one or the other of these cases, the municipal authority, which is, in fact, only administrative, has no right to act :

“Whereas, Montesquieu says : (*Esprit des Loix*, Book

“xxvi., Chap. 20) that liberty consists chiefly in its being impossible that any one shall be forced to do anything not ordained by the law, and that we are only free because we live under laws, therefore (he adds), one cannot *be compelled to do a thing that the law does not require, and one can, by virtue of the law, resist violence* :

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JUDGMENT OF
THE COURT OF
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“Whereas, by virtue of this well-established principle, it is important in the case now under consideration carefully to mark out the legal limits within which the municipal authority has the right to move; to examine if it has exceeded them; and, finally, to determine precisely and indisputably its *modus vivendi* in relation to and as parallel with the judicial authority :

“Whereas the examination of the police regulations concerning prostitution, which forms part of the municipal functions, is one of those involving the most delicate questions of morality, health, security, and individual liberty :

“Whereas, if the inscription of ‘common women’ on the Morals-Register is subject only to the control of the administrative authority, it is none the less true that everything which touches on the position (*condition*), the actions, and the *punishment* of the ‘common women’ themselves, goes beyond *the exclusive functions of the police*, and comes within the jurisdiction of the ordinary courts :

“Whereas, if we go back to the year 800, to the *Capitularies* of Charlemagne, then to St. Louis—who desired to re-establish them—then to the Police Ordinance of the 6th November, 1788, then to the 17th Nivose, in the year IV.,—we see that all the Decrees and Ordinances which attempted to regulate prostitution have always fallen into disuse; whence it logically results, that the principle of the right of individual liberty has always predominated and prevailed against them :

“Whereas, if for more than ten centuries, during which this formidable and dangerous problem has existed, no legislative authority has ever dared to take it in hand or to solve it, the silence of the law upon those cases of prostitution which do not amount to outrages upon morals,

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“places the municipal administrative authorities in a delicate position when they are required to take cognizance of, to register, and to subject to sanitary precautions the women who sink to this last stage of degradation.

“In fact, how much prudence does it not require to discern the too often inappreciable distinction between prostitutes and the women whose immoral conduct may inspire indeed equal contempt, but yet does not present all the circumstances which characterise prostitution and which would subject them to the regulations imposed upon ‘common women.’ As guardian of the honour of families, the administrative authority ought not to forget that inscription on the register is a brand of infamy which is in some sort indelible, and that it is only after having exhausted all the modes of action which the law places at its disposal that it ought to grant the shameful favour *which is asked from it* :

Whereas, in the absence of any legislative Act, the judge whose duty it is to punish ought only to do so with extreme reserve, and above all with extreme prudence, for that he can only refer to some decrees of the Supreme Court, whose high authority ought to be his guide and support, and upon the grounded and deliberate opinions of *jurisconsultes* and specialists who have occupied themselves with this important question, and whose writings illustrate and direct the principles of judicial decision now in vogue.

“Whereas, if it is true that, from the establishment of the Prefecture of Police down to the present day, schemes for a law upon the subject of prostitution have engaged the attention of the Administrative Bureaux, these schemes have, unfortunately, never been laid before the Corps Législatif, and it is always in the name of the public safety and of the *constitutive principles of municipal authority* that prostitutes have been controlled, whether it was a question of regulation, inscription, or sanitary control, or whether it may have been necessary to impose taxes, to sentence to prison or to *banish from the town* :

“Whereas, if the municipal authority, guided and regulated by the laws of the 16th to the 24th August, 1790,

“and of the 19th to the 22nd July, 1791, has a right of
 “control over everything that touches upon the question of
 “prostitution, it is upon the express condition that it does
 “not diverge from the legal lines which have been traced out
 “for it by those laws ; for, outside those laws a fatal descent
 “is made into the domain of the purely arbitrary, which is
 “formally prohibited by our codes ; *and that where the*
 “*legislator has not dared to proceed penally the municipal*
 “*authority has no right to do so :*

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“Whereas in Rheims, a city of 80,000 souls, the func-
 “tions of the *Bureau des Mœurs* are exercised by the agents
 “of public security, and we may well admit (since it is so
 “difficult in these days, owing to the extravagance of fashion
 “to distinguish a respectable woman from one who is not
 “respectable) that these policemen may not be gifted with
 “the amount of prudence and tact necessary to discern the
 “too often inappreciable shades of difference which dis-
 “tinguish the gay woman (*femme galante*) from the prosti-
 “tute, and that they exert an arbitrary power so much the
 “more dangerous that it is placed in irresponsible hands :

“Whereas, along with the inviolable and sacred right of
 “individual liberty there ought to be for every one, to what-
 “ever sphere or class they may belong, an impartial protection
 “afforded, in the first place by the municipal officers, and in
 “the second place by the magistrates, who being charged
 “with the duty of applying the law and punishing offences,
 “ought only to do so upon thorough knowledge of the facts,
 “above all when, as in the present case, the honour and
 “respect due to private life are at stake :

“Whereas, if it is incumbent upon the judicial authority
 “to sanction and defend the municipal authority, it is only
 “on condition that the latter respects the great principle of
 “individual liberty, and does not diverge from the legal lines
 “traced out for it by the laws of the 16th-24th August, 1790,
 “and the 19th-22nd July, 1791 :

“Whereas, legally, the orders made by the Mayor of
 “Rheims relative to ‘common women,’ so far as they go, only
 “subject to the penalties therein provided offences against
 “administrative regulations which are *legally made*, con-

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“formably to the provisions of Art. 471, Sec. 15 of the Penal Code, and Arts. 3 and 4, title xi., of the law of the 16th-24th August, 1790, and Art. 46, title i., of the law of the 19th-22nd July, 1791; it is clear that this Art. 471, Sec. 15 attributes to the police courts, not merely the power, but the duty of verifying *the legality of the Municipal orders issued pursuant to the laws relating to that subject*, and consequently the right to refuse penal sanction to such of those orders as appear to the Court either to transgress the limits of the authority which issued them, or to violate the letter or spirit of the laws upon which they are founded :

“And whereas this principle, solemnly affirmed by two decisions of the *Court of Cassation* of the 16th of March and the 27th of July, 1870, has been formally and specifically confirmed in the case of prostitution by three decisions of the same Court of the 4th of June, 1836, the 17th January, 1862, and the 24th November, 1865 :

“Whereas, nothing in the text of the Laws of 1790 and 1791 which confer upon the municipal authority the right to regulate prostitution, accords to it that of summarily and finally branding any person with the appellation of ‘common woman’ :

“Whereas, before declaring a woman by name, and definitely, subject to the prescribed periodical and personal examinations (*visites*), she ought to have served upon her a notice or peremptory summons to appear (*notification ou mise en demeure administrative*), which she may either accept with all its obligatory consequences, *by signifying her consent in the register provided for that purpose*, or against which she has the right of entering a complaint before the superior court :

“Whereas, without this equitable procedure, registration (*mise en curte*) becomes an arbitrary act :

“Whereas, in fact, if we take our stand upon the enlightened and logical argument of Parent-Duchâtelet, Vol. I, p. 276, which is entitled to great weight in a question of ‘jurisprudence,’ we see that ‘the women who are to be finally enrolled among the number of “common women” are

“ ‘required to sign a declaration, which without such signature
 “ ‘is null and void, setting forth and verifying (*constatant*) the
 “ ‘facts of their inscription and of their engagement to conform
 “ ‘exactly to all the rules prescribed for purposes of super-
 “ ‘intendence and health.’ Parent-Duchâtelet adds (Vol. I.,
 “ p. 382), that ‘when a girl is not wholly corrupt, when she
 “ ‘is healthy, when she exhibits a good disposition, and all
 “ ‘ascertained facts and indications prove that she is only
 “ ‘enrolling herself out of spite or despair, she is dismissed
 “ ‘to her own province with a passport, and often with help
 “ ‘for her journey, but always upon her identity being
 “ ‘established’ :

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“ ‘Whereas, if nothing in the law confers upon the muni-
 “ ‘cipal authorities the right to place extra-judicially (*de plano*)
 “ ‘a girl upon the register without her *consent* and *submission*,
 “ ‘this gap is in a large measure filled by the *right of expulsion*
 “ ‘or *banishment*, which has never been withdrawn :

“ ‘Whereas, the grammatical and legal interpretation of the
 “ ‘generic expression ‘subjected woman’ (*fille soumise*) im-
 “ ‘plies to perfection the qualification demanded from the
 “ ‘woman who subjects herself (but *voluntarily, or after all*
 “ ‘*formalities have been fulfilled*) to the regulations and orders
 “ ‘which belong to her condition when ascertained, and which
 “ ‘she had accepted by *affixing her signature to the Register*
 “ ‘*of the Bureau des Mœurs* :

“ ‘Whereas, finally, definite enrolment can only take place
 “ ‘in two ways ; either by the judicial authority deciding
 “ ‘upon a case brought before them, or by a *personal under-*
 “ ‘*taking* to carry out the regulations prescribed by the
 “ ‘municipal authority, which then, and then only, can exer-
 “ ‘cise superintendence and control over the woman :

“ ‘Whereas, outside these two kinds of procedure, there is
 “ ‘a descent into the domain of what is arbitrary :

“ ‘Whereas, the legal principles (*jurisprudence*) adopted
 “ ‘and now thoroughly established by the Supreme Court have
 “ ‘always been that the Judge of Police has an absolute con-
 “ ‘trol over Municipal Orders of this kind, and the last decision
 “ ‘given, under the date 15th January, 1875, leaves no doubt
 “ ‘upon the question ; indeed, by this decision, the Court

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"gives the judge the right of calling for the production of
"the Register of the *Bureau des Mœurs*, in order to be able
"to make clear its scrupulous justice (*éclairer sa religion*) and
"confirm its tenor, so as to be able afterwards to condemn or
"acquit, with thorough knowledge of the facts, the girls en-
"rolled thereon, whether regularly or irregularly enrolled :

"Whereas, by an interlocutory judgment under date the
"3rd July, 1876, the Court ordered the production at the
"bar of the Register of the *Bureau des Mœurs* of the town of
"Rheims, with a view of ascertaining its regularity, in order
"to assure itself that the girls enrolled thereon as subjected
"women were so enrolled on definite grounds, to see if the
"procedure pursued against them had been legal, and finally
"to enquire if they came under Art. 471, par. 15 of the
"Penal Code :

"Whereas the *Commissaire Central* was peremptorily sum-
"moned to produce this register, and after having at first
"put in a plea (*une fin de non recevoir*), alleging that it might
"perhaps, be indiscreet to allow it to leave the Mayor's
"office, and after having presented to us extracts signed by
"himself, which he pretended ought to suffice instead and in
"place of this register, has at last decided to its production :

"The Court delivers to him its certificate of the production
"of this register containing enrolments going back to the
"middle of the year 1868, and no further :

"And whereas, this register having been verified by means
"of properly signed extracts furnished to us, we have collated
"it, and established that since the said date of 1868 up to
"this day, 538 names have been enrolled therein : that this
"number of 538 is composed of 217 women belonging to
"licensed brothels, and of 321 women described as living by
"themselves (*isolées*) ; that this register is specially kept by
"the agents of public safety, whose handwriting is unde-
"niable ; that it has many omissions ; that enrolment is
"sometimes effected by merely lodging an information (*dé-
"nonciation*) ; that some names are not followed by any
"record (*mention*) ; that a judgment delivered by this Court
"on the 9th November, 1874, decreeing an erasure is not
"even mentioned ; that an erasure ordered by this Court has

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"not had effect given to it as a final judgment; that, in fact,
"an extract from the register of the orders of the Mayor of
"Rheims, *certified as in conformity with the register* by the
"Commissaire Central, and delivered to us by him on the
"17th July, 1876, proves that under date the 3rd of the
"same month of July, the very day of the acquittal of R——,
"whose petition of appeal has since been drawn up by the
"Public Minister (*Commissaire Central*), no mention was
"made of an erasure ordered by a judgment previous to the
"24th July, 1876, since the extract furnished upon the 17th
"July makes no mention of it, and simply sets forth an order
"of the Mayor of Rheims of the 26th January, 1875,
"previous to the judgment; that neither does this extract,
"certified as correct, mention an entry in these terms copied
"by ourselves upon the Register ———— 'Declared by the
"Mayor to be a subjected woman (*fille soumise*) 19 February,
"1876,' which inscription, freshly written and certainly not
"five months old, has been recently made, and is subsequent
"to the 17th July, the day on which the extract was furnished
"(therefore irregularly), and seems only to have been added
"for the purpose of the complaint :

"Whereas, finally, the names of girls belonging to brothels
"are said to have been 'enrolled at their request,' which is
"regular in fact and in law, whilst the names of the other
"girls are simply followed by 'enrolled' without the acquies-
"cence or signature of the enrolled girl, which is contrary to
"common law :

"Whereas, therefore, this register does not establish deci-
"sively that the definite qualification of a 'subjected woman'
"attaches to the women whose names are given in the depo-
"sitions laid before us; and the law does not allow advantage
"to be taken of the silence of the accused to attribute to them
"a tacit submission to regulations they have never accepted,
"and a defined position of dishonour to which they have not
"been submitted either according to any regulation or in or-
"dinary course of law, a proceeding which would be most
"arbitrary; and *ubi lex non distinguit nec nos distinguere*
"*debemus* :

"Determined by these considerations and those enunciated
"in the preceding recital :

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“Whereas, the Police Magistrate is not bound to consider
“as proved the inscription of a woman upon the Police
“Register if the proof of final enrolment be not forthcoming :

“Whereas the register produced contains no signature
“testifying the acquiescence and submission of the accused,
“and therefore the proof offered by the Public Minister is
“neither established in fact nor justified in law :

“Putting aside the propositions adopted by the Public
“Minister which the Court cannot accept :

“And whereas, there is nothing to justify the contention
“that the women, B, C, &c., &c., came within Art. 471,
“Sec. 15, of the Penal Code by virtue of Arts. 3 and 4,
“title xi., of the law of the 16th-24th August, 1790, and
“Art. 46, title i., of the law of the 19th-23rd July, 1791,
“and, therefore, the misconduct imputed to the said accused
“is in no way established or proved :

“The Court dismisses the summons against the accused
“without subjecting them to costs.”

BORDEAUX.



The following are the regulations written on the card APPENDIX.
handed to the women on registration, on the reverse side of
which are her first and second names, her age, country,
domicile, and number in the register, and a list of months in
the year with blank spaces, one of which is to be filled in by
the examining surgeon each week throughout the year. It
will appear from these regulations how far the method differs
from that pursued at Paris :—

I.—*Moral Police.*

1. Common women are forbidden—

- (1) To leave their residence after ten o'clock in the evening.
- (2) To appear on the public promenades.
- (3) To stop in the streets or in public places, or to traverse them in a garment likely to attract attention.
- (4) To stop when funerals are passing.
- (5) To speak to passers by.
- (6) To present themselves in front of their houses.
- (7) To make obscene proposals.
- (8) To invite men to come to them—even by signs.
- (9) To exhibit themselves in public in a state of drunkenness.
- (10) To present themselves before the barracks and the guard-houses; to accost soldiers, or to receive them after the hour at which they should return to barracks.

2. Common women who contravene the provisions of the preceding article and who conduct themselves in a way to cause disorder will be at once arrested and taken before

APPENDIX. the Courts, if there is an opportunity for it, or at least detained in confinement by way of punishment.

3. Common women must always have their cards with them and show them whenever required.

4. Any woman who shall be found in possession of another woman's card will be imprisoned for as many days as the police think necessary in view of the motive which led to the offence.

5. Common women, whenever they change their abode, are bound to make a declaration to that effect at the office of Public Morals within twenty-four hours. This regulation is binding even upon women who are temporarily exempted from the sanitary visits.

The streets bordering on the Hotel of the Military Division, the Hotel de Ville, or other public establishments, are prohibited to public women.

II.—*Medical Police.*

6. Common women are subject, once a week, to an examination (*la visite*) by appointed medical men in order to verify their healthy condition.

Independently of these examinations, they will be exceptionally examined as often as it is deemed necessary.

7. A woman on being examined is bound to produce her card to the medical attendant, who will affix his seal if she is healthy. [This is really done by the police agent.—Jeannel, p. 416]. If she is found or suspected to be infected with a venereal disease, she is sent to the office of Public Morals in order to be taken to the Hospital of St. John. Her card, retained on her entry into the Hospital of St. John, is restored to her on her exit from it.

8. Common women who neglect to present themselves for examination will be held suspected of having a venereal disease, and detained in confinement as long as it shall be held necessary in order to ascertain their physical condition, or by way of punishment.

9. Every common woman placed in confinement at a

station-house on whatever ground will be subjected to a APPENDIX. medical examination.

10. Common women known to be infected with venereal diseases, to whatever category they belong, are sent to the Hospital of St. John in order to be there treated till they are completely cured, and they can never be tended anywhere but in that hospital.

Dr. Jeannel (p. 412) says that punctuality at the medical examinations is practically secured at Bordeaux by a method invented by himself. The attendances are gratuitous on Tuesdays and Wednesdays from nine o'clock to eleven o'clock in the morning, and any woman who does not present herself when obliged to do so on one or other of these days, and at this time, is liable to imprisonment for twenty-four hours. But the imprisonment is not inflicted at once, and it can be bought off on payment of seventy-five centimes by the women if they attend for examination on the Friday, or by the payment of two francs if they attend on the Saturday.

APPENDIX.

MARSEILLES.



The following are regulations now in force :—

1. The police service of public morals is placed under the direction of a Commissary of Police, chief of the office, assisted by an inspector and seven agents.

2. This functionary is charged with the duty of seeing to the execution of the police regulations respecting the repression of clandestine prostitution, common women, tolerated houses, and furnished lodgings where women of bad life reside.

3. Any one who desires to set up a tolerated house, or to keep furnished lodgings for the accommodation of registered women, must be provided with a licence.

4. Every demand for a licence to provide lodgings for registered women or to set up a tolerated house is communicated to the special Commissary of Public Morals ; he transmits it, with his observations and his opinion, to the Central Commissary whose duty it is to send it on to us (*Prefect or Mayor*).

5. Tolerated houses and furnished lodgings where registered women reside must be provided with two entrance doors, and have their sashes padlocked.

6. Every woman who is notoriously known to give herself up to prostitution will be inscribed on a register kept for that purpose by the special Commissary of Public Morals. This inscription will be directed by us to take place on his report, and on hearing the opinion of the Central Commissary.

7. Registered women are expressly forbidden to appear on the public promenades, in the theatres, and in the *cafés chantants* ; they are forbidden to station themselves in the public thoroughfares, to walk about after sunset, to form themselves into groups there, to walk up and down within a

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GENERAL
REGULATIONS.

narrow space, to speak to passers-by, to attract them or call them by signs, or in any other way to cause themselves there to be accosted or followed by them.

8. Any registered woman who wishes to be dismissed from the register must address to us a request, in reference to which a suitable decision will be arrived at on the report of the special Commissary of Public Manners and on the opinion of the Central Commissary.

9. The women are ordered to avoid in their attire everything that could wound feelings of decency and modesty.

10. All registered women are subject to medical examination (*la visite*) once a week in order to ascertain their sanitary condition.

11. Registered women are divided into five sections; they are examined from ten o'clock to one on Mondays, Tuesdays, Wednesdays, Fridays, and Saturdays, either at the existing dispensary or at that which is to be set up at the Reboule corner.

12. The payment due from every woman for the expense of the examinations is fifty centimes, one franc, or two francs, according to the place and the days where and when the examination takes place and the class to which the women belong. Those who pay fifty centimes will be examined on Mondays and Tuesdays in the present dispensary. Those who pay one franc will be examined on Wednesdays and Fridays at the dispensary at the Reboule corner. Those who pay two francs will be examined on Saturdays at the same dispensary.

Women arrested for giving themselves up to clandestine prostitution and for not being registered are exempted from this payment.

The last two articles deal with minute details, which are constantly changing, and have, in fact, undergone some slight modifications since this extract was made.

APPENDIX. INTERROGATORY OF A WOMAN APPEARING
FOR THE FIRST TIME AT THE OFFICE
UPON CHARGE OF PROSTITUTION.

MARSEILLES,

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MAYORALTY OF	1st. What are her name and Christian names?.....	_____
MARSEILLES.		
—	2nd. Her age?	_____
<i>Sanitary Service.</i>		
—	3rd. The name of the commune and the department where she was born?	_____
<i>Inspector's Office.</i>		
—	4th. The date of her birth?	_____
Description :	5th. The names of her father and mother?	_____
Figure,		
Hair,	6th. Are they living, where do they live, and what is their occupation?	_____
Forehead,		
Eyebrows,	7th. What is her business : does she work at it?	_____
Eyes,		
Nose,	8th. What is her present domicile?	_____
Mouth,		
Chin,	9th. Her former domiciles ?	_____
Appearance,		1.
Complexion.		2.
		3.
Peculiar marks.		4.
—		5.
Documents		6.
appended.		
	10th. Where did she leave her family, and how long ago?	_____
	11th. Has she lived long at Marseilles?	_____
	12th. Where did she live before?	_____

FORM OF INTERROGATORY—*continued.*

APPENDIX.

MAYORALTY OF MARSEILLES.	13th. Is she married, single, or a widow?	
	14th. Has she children, and how many?	
	15th. Can she read and write?	
	16th. Has she already been a <i>fille soumise</i> , either at Marseilles or elsewhere? .	
	17th. Does she admit the facts of the prostitution with which she is charged?	
	18th. Does she object to her registration as <i>fille sou-</i> <i>mise</i> ?	
	19th. Has she already been infected by venereal dis- ease and treated for it?..	
	20th. Has she been pre- viously sentenced?	
	21st. Does she at present consent to the <i>visite</i> , and what is her state of health?	
	22nd. Does she possess pa- pers and of what do they consist?	
23rd. Names of the officers who have watched and detained her?		
24th. <i>Résumé</i> of the infor- mation obtained offi- cially?		

APPENDIX. REGULATION OF THE POLICE OF THE INTERIOR
FOR THE WARDS OF PROSTITUTES SUFFERING
FROM VENEREAL DISEASE.

(L'HÔPITAL DE LA CONCEPTION DE MARSEILLES.)

Article 1. The sick women are forbidden without permission to leave the ward which shall have been assigned them on entering the hospital.

Article 2. They shall wear the uniform of the establishment as it is delivered to them, and they shall use it with care, all damage being charged to them.

They shall be permitted to use their own body linen if they prefer it to that furnished by the establishment.

Of all other property that they shall have brought with them an inventory shall be taken, and this property shall be placed in the wardrobe, and only returned at the time of departure.

Article 3. For washing the body-linen of women suffering from venereal disease provision will be made by a commissioner appointed by the superintendent officer.

Article 4. No packet may be despatched or received unless previously examined by the superintendent officer.

Article 5. The superintendent officer may authorise the introduction into the establishment of food from without, but this authority must always be exercised with extreme caution. All salt meat, pork in every form, and all liquids containing more or less alcohol are absolutely excluded.

Article 6. Whatever articles are purchased through the agency of the commissioners appointed by the superintendent officer can only be delivered upon receipt of their price.

Article 7. All the women must take their meals in the refectory, with the exception of such as are confined to their beds in compliance with the directions of the medical officer.

The women of each ward shall repair thither in succession at stated hours.

Article 8. The women whose state of health permits

manual labour shall be occupied in the work-rooms in sewing and making garments for use in the hospitals. APPENDIX.

For their encouragement, a remuneration shall be allowed in accordance with the following tariff : POLICE REGULATIONS FOR
WARDS IN
MARSEILLES
HOSPITAL.

Making a cap	ten centimes.
„ a chemise	fifty „
„ a skirt.....	„ „
„ a dress.....	one franc
„ a cloak	one franc, twenty-five centimes.
„ a pair of drawers	fifty centimes
„ a vest	„ „

The price for the making of articles shall be paid immediately upon delivery.

In cases where other articles are made, the price shall be determined by a supplementary tariff.

All pieces of work must be returned well made.

The hospital board will furnish thread, needles, and all other articles necessary for needlework

Article 9. Two hours' exercise shall be granted daily to the patients in the yard of the building specially appropriated to the use of women suffering from venereal disease; one hour in the morning and one in the evening.

The superintendent officer shall determine these hours according to the season, in such manner that they shall be different for the patients of each ward.

Article 10. All the women received into the establishment shall be obliged to use the greatest reserve and decency in their actions and words.

Those who disturb order, or who infringe in any other way upon the present regulations, shall suffer the following penalties:—

- (1.) Deprivation of wine.
- (2.) Restriction to bread and water.
- (3.) Imprisonment.

These penalties shall be inflicted by the superintendent officer; he shall refer immediately to the board, who may take severer measures according to the gravity of the case.

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POLICE REGU-
LATIONS FOR
WARDS IN
MARSEILLES
HOSPITAL.

Article 11. In all cases the superintendent officer is authorised to appeal to the executive power when he shall consider it expedient, especially to the intervention of the commissioner of police for the arrondissement, and, in concert with this functionary, he shall take effectual measures for restoring and maintaining order in the establishment.

The present regulations shall be posted in all the wards appropriated to the use of women infected by venereal disease.

Resolved and published by the administrative commission, July 11th, 1863.

Signed by the official in charge.

BREST.

The arrangements made at the sea-port town of Brest are chiefly interesting for the parallel they present with the co-operation which, under the English Acts, is brought about between the British Admiralty and the Municipal Governments of the several sea-port towns to which the Acts apply. On the 26th of December, 1871, an agreement was concluded between the Municipality of Brest and the Public Department of the Marine and of War for organising a special service in order to keep off venereal diseases. The Marine Department contributes 3,000 francs, and that of War 1,500, "in order to assist the town in paying for a commissary of police and special inspectors charged with the task of keeping a 'surveillance' over prostitution, as well as a civil medical attendant charged with the duty of examining prostitutes, in accordance with regulations analogous to those which are in force in the other great towns of France."—(Jeannel, p. 408).

APPENDIX.

NANTES.



APPENDIX.

The regulations in Nantes are interesting from the laboured judicial reasoning by which they were first introduced. The following is a *verbatim* translation of part of the municipal decree of 31 December, 1838, by which the regulations first came into force.

MAIRIE OF THE TOWN OF NANTES.

DECREE CONCERNING THE SUPERVISION AND MEDICAL
TREATMENT OF COMMON WOMEN.

We, Mayor of Nantes, Chevalier of the Legion of Honour, taking into consideration the laws of the 14th-22nd of December, 1789; 16th-24th August, 1790; 10th July, 1790; 19th-22nd of the same month, Title I. (Art. 10 and 46);

Taking into consideration the Government decree of the 5th of brumaire, an. IX (27th October, 1806), and the decree of the 28th of fructidor, an. XII, (10th September, 1805).

Taking into consideration Articles 270, 271, 273, 330, 331, 332, 334, 335, 336, 337, 338, 339, 340, 471, 475, 479 and 480 of the Penal Code; taking into consideration Article 1834 of the Civil Code; considering that the 50th Article of the law of 14th-22nd of December, 1789, and the third article of Title XI. of the law of the 16th-24th of August, 1790, confides in us the care of preventing whatever may impair public order in the city, or threaten tranquillity or the honour of private families; considering that it results from Article 52., Tit. III. of the law of July, 1791, that all women or girls who notoriously lead a life of profligacy "place themselves in an exceptional situation; considering "that houses of prostitution and profligacy are generally

“refuges for suspected persons, and places where the purse
 “and even the life of those who frequent them are often
 “exposed to risks; considering that, far from authorising
 “houses of profligacy and protecting the individuals who
 “keep such places, the laws have always invoked against them
 “a constant and vigilant exercise of authority and police
 “activity, and commanded the instant and severe repression
 “of all scandalous acts which might menace public morality;
 “considering that the toleration which allows of the existence
 “of such places in populous towns justifies itself only by the
 “necessity of avoiding a greater evil; that, consequently, the
 “municipal authority is incontestably invested with
 “authority with the right to interpose all the conditions or
 “restrictions it judges necessary or simply useful,” &c. &c.

APPENDIX.

 DECREE CONCERNING
 SUPERVISION
 AND MEDICAL
 TREATMENT
 OF WOMEN

BERLIN.

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APPENDIX.

RECENT
HISTORY.

It is well known that the licensing system has been exposed to more vicissitudes in Germany than anywhere else, and is now passing through a specially critical stage, which seems to point to its early abolition. In 1853 an elaborate code of regulations was promulgated, on the recommendation of a special Commission of Public Morals appointed in 1850 to act with the Police Department, but the chief provisions of this code have long been obsolete owing to the abolition of licensed brothels in 1855.

Mr. Acton was assisted by Lord Clarendon in procuring, through the British diplomatic authorities, an exact statement of the regulations in force in 1868, and there does not seem to have been any substantial change in them between that year and the present, though (as was seen in a previous chapter of this work) the revision of the German Penal Code, which is now being proceeded with, led in the past year (1876) to an attempt, not only to introduce the system of licensed brothels, but to make them a legal institution of the Empire. The 180th section of the Penal Code now stands as follows:—

THE GERMAN
PENAL CODE,
s. 180.

“Any one who facilitates profligacy, either habitually or for a special purpose of his own, whether by acting as an intermediate agent, or by patronizing or providing opportunities for it, is liable to imprisonment as a panderer to vice: the offender is further liable to lose his civil rights, and placed under the surveillance of the police.”

Dr. Zinn and five other physicians combined to recommend the addition of a clause to the effect that the above provision should not apply “where any one facilitates the profligacy of a woman who is subject to the surveillance of the police as a notorious prostitute,” excepting in cases of fraud, and offences against wards, and persons under guardianship

generally, specially contemplated by the next clause in the existing Code. APPENDIX.

The 361st section of the Penal Code punishes with imprisonment “any woman who, *contrary to police regulations*, notoriously gives herself to prostitution.” The Government proposed to amend this clause so as to make it stand as follows :—

THE GERMAN
PENAL CODE,
S. 361.

“Any woman is liable to imprisonment who, placed under the surveillance of the police as being notoriously given to prostitution, acts contrary to the regulations made for the purposes of health, order and public morals, or who, without being placed under the surveillance of the police, notoriously gives herself to prostitution.”

Dr. Zinn and his party desired further to add a clause in support of licensed brothels to the effect that all persons acting as intermediate agents, favouring, or providing opportunities for the profligacy of a woman subject to police surveillance as a notorious prostitute, will be liable to imprisonment *if they contravene the regulations of the police or have not a licence from them*.

DR. ZINN'S
PROPOSED
AMENDMENT
ON BROTHELS.

All these amendments are said to have been rejected ; but the history of them is instructive for other reasons than because they afford the clearest view of the present state of the law. Of course, the question here was not whether a precarious existence, dependent on the will of the police, should or not be any longer extended to brothels in such towns as Berlin and Hamburg, but whether the inherent illegality of them should continue to be stamped on the general law of the Empire, or whether, in place of this absolute illegality, there should be substituted the relative illegality of them when not complying with certain conditions. At Berlin, the police are, it would appear, to be in the habit of placing all lodging-houses they have reason to believe to be brothels under a system of periodical medical examinations, and until last year, at Hamburg, a very precise and rigorous police code regulated brothels generally.

Mr. Acton inserts, by the courtesy of Lord Clarendon, a copy of a despatch to the English Government on the subject of the police regulations in Berlin. The following are relevant extracts from this important document :—

APPENDIX.

“ Women notoriously addicted to prostitution, who have
 “ either been judicially condemned for professional harlotry,
 “ or who confessedly lead a life of clandestine prostitution, or
 “ who have been seen several times walking in the streets in
 “ company with other known prostitutes, or who have been
 “ in the Charité Hospital here under treatment for syphilis,
 “ are placed under the control of the sanitary police, and are
 “ obliged to present themselves regularly once a week to be
 “ medically examined. They receive directions as to their
 “ outward behaviour, and are subjected to the restrictions
 “ suited to the particular requirements of the place. Women
 “ who are found on medical examination to be infected with
 “ syphilitic disease are immediately received into the Charité
 “ Hospital.

“ Prostitutes transgressing the regulations, unless the case
 “ is one which falls within reach of the ordinary laws, and
 “ therefore is one for judicial cognizance, are examined on the
 “ charge as reported by the executive officer, and are either
 “ dismissed with a warning, or, on a repetition of the offence,
 “ a committal briefly stating the reasons is made out, and
 “ they are sent to the prison by an exercise of executive
 “ authority for a period not exceeding four weeks.” . . .

POLICE FORM
 USED IN CASE
 OF SUSPECTED
 WOMEN.

The subjoined police-form shows the method of dealing with women who, though not actually enrolled in the police lists of prostitutes, behave in such a manner as to subject themselves to grave suspicion :

BERLIN.

Date.

This day appeared, known by nobody ; from ;
 age ; residing at .

“ She was informed that, as she was strongly suspected of
 “ an immoral way of living, she was forbidden :—

- “ 1. To entice male persons to her lodgings through
 “ words, winks, signs, or any other announcement
 “ (for instance, showing a lamp or light), either
 “ from the window or from the door.

- “ 2. To make herself conspicuous, or to entice men

“ through words, speech, or signs in public places, **APPENDIX.**
“ in the streets, in squares, in the theatre, or any
“ other public buildings.

- “ 3. To enter the lodgings of people suspected of being
“ procurers, or who have been already punished for
“ this misdemeanour.
- “ 4. To go about in the neighbourhood of barracks,
“ military buildings, the ‘Park of Invalids,’ and
“ any other places much frequented by soldiers.
- “ 5. To take lodgings in the neighbourhood of churches,
“ schools, and royal buildings, as well as to enter
“ ground floor habitations.
- “ 6. To go into the boxes of the first range in any
“ theatre, except the pit of the royal theatre, and
“ the Krollische Local ” (a kind of Vauxhall).

“ This ordinance will be enforced by a punishment of up to
“ four weeks’ police imprisonment, pronounced according to
“ the instructions of the Government, dated the 23rd of
“ October, 1807, and the Ordinance of 26th of December
“ 1808.”

HAMBURG.

—o—

APPENDIX.

LICENSING OF
BROTHELS
ABOLISHED.

The system, in respect of licensed houses, has within the past year undergone an important change in Hamburg and all other German towns. The practice of licensing brothels has been abolished. The law faculties of the German Universities were consulted as to whether the public recognition of houses used for immoral purposes was compatible with a strict application of accepted doctrines in favour of the removal of all restrictions from honest industries and trades. The general answer was in the negative, and all the licences were withdrawn.

RECENT CON-
DITION OF
HAMBURG.

Nevertheless, the condition of Hamburg was, only lately, so characteristic of the system that it is worth while recurring to its form in that town before the recent formal change.

“The system at present in force” (says Mr. Acton, writing in 1870) “was initiated by the town itself in 1807, improved upon under the French occupation in 1811, and finally settled in 1834. It is of great length, and minute, as might be expected, in the extreme.”

The following are some of the regulations which, for the present purpose, are most worth citing:—

“All brothel keepers, male and female, and registered women should bear in mind that their profession is only *tolerated*, not allowed or even authorized or approved of. Still less have they reason to believe that their profession is to be put on a par with other authorised professions, because a tax is levied upon them, or to brave on that account other honest citizens. They must always remember that this tax is levied only to defray the necessary expenses of their police supervision, and the cure of the diseases which common women bring upon themselves by their blameable way of living, and therefore they must on all occasions be neither impudent nor overbearing, but modest

“and especially must they behave themselves in a docile manner towards the police officers and their regulations.”

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Places, other than authorised brothels, where meetings between men and women take place for purposes of cohabitation will not in future be tolerated, if—

1. The keepers, male and female, have not been duly registered.
2. At least one registered woman does not live there.
3. Any but registered women are admitted.

No keeper, either of this or another sort, is to allow other girls or women to meet men at his house under penalty of heavy punishment or withdrawal of the licence. It is ordered that women may claim in their account (for one visit in an extra room, which visit does not last over half-an-hour)—

1st Class, no more than 1 dol. (4s. 7d.); and for every hour further also 1 dol. per hour.

2nd Class, one half.

No consideration is hereby taken of any further claims in consequence of demands made on them by their visitors.

Women are strictly forbidden to undress in the guest-room; this tariff to be posted in all rooms, and is to be produced at the request of each guest.

It is strictly forbidden to the keeper and to the women to give credit to guests, and they must observe that they are not allowed the right to bring an action before the civil authorities on such a claim.

If it comes to be known that they have given credit, they will be, according to the circumstances, severely punished, besides losing their claim. No keeper or registered woman is to extort money from or offer violence to a visitor, or to receive any articles in pledge. In return, they have the right to cause to be taken into custody visitors who will not or cannot pay anything, or with whom they cannot agree as to payment.

Public women must submit themselves twice a week for medical inspection, which, whenever practicable, is to take

APPENDIX. place at their residence and in the morning. The violation of these regulations entails a week's imprisonment, and under aggravating circumstances a more severe punishment.

The tax upon women amounts to 8, 6, and 4 marks (12s. 3d., 9s. 2d., 6s. 1d.) per month, according to the class of the keeper and the women.

If the tax is not paid and cannot be collected, the licence will be withdrawn from the keeper or from the woman, or, if a foreigner, she will be sent away from the town.

The tax must be paid in the first fortnight of each month. A receipt is given on a ticket which is paid for at a small fixed price, and the loss of which is punishable by a fine of about 3s., or forty-eight hours' imprisonment.

The tariff for drinks must be posted in all the rooms of a brothel and shown to each visitor.

[*Tariff given.*]

VIENNA.



Mr. Acton is here again able to give the words of a despatch relating to prostitution in Vienna forwarded to the English Government by the Imperial and Royal Ministry for Foreign Affairs, and derived in part from the Ministry of the Interior. From this despatch, dated March 19th, 1869, it appears that, "No registry of prostitution is kept in Vienna, as allurements and pimping, and fraud in allurements, are forbidden by the laws of March 27th, 1852 (Regulation No. 117). To prevent as much as possible the spread of syphilis by common women in the large towns, and especially in Vienna, the agents of the police occasionally make visits, and have the common women who are arrested medically examined, and if found to be ill of syphilis, sent to the hospitals to be cured. In these establishments no separate beds are kept for the treatment of prostitutes suffering from syphilis; as a rule they come together with the rest of the syphilitic women in the same hospital."

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DESPATCH TO
ENGLISH
GOVERNMENT,
MARCH 19TH,
1869.

In the army, says the same despatch, all the men, from the sergeant downwards, inclusive of officers' servants, are examined once a week by a medical officer, for the purpose of ascertaining whether they are suffering from syphilis or itch. Moreover, the soldier is taught to consider it his duty to report at once any illness of this nature. All men found suffering from syphilis are sent to hospital, and are moreover asked whether they are disposed to state the name of the person whom they believe to have given them the disease, and, in case they consent, notice is given to the proper authority, in order that further official steps may be taken.

In Mr. Wilde's work on the Institutions of Austria, Mr. Wilde quoted by Mr. Acton, it is said (pp. 313, 314) that, "Public brothels are not tolerated by the police, and common women are sent into houses of correction; this, however, is but the

MR. WILDE
ON THE
"INSTITUTIONS
OF AUSTRIA."

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MR. WILDE
ON THE
"INSTITUTIONS
OF AUSTRIA."

"letter of the law, not the practice ; for though it has been
"stated that, owing to the present condition of morality,
"such persons are not required in that country, yet the lowest
"calculation allows the number of common women in the
"capital to be 15,000. It is, however, much to be admired that
"the same disgusting exhibitions which are witnessed in the
"capitals of Great Britain are not permitted by the Austrian
"police : all persons considered of an improper character,
"when found in the streets after a certain hour, are con-
"ducted to the police office ; and if, on examination, they are
"found to be diseased, they are at once sent into hospital.
"Common women are not licensed in Austria, but the police
"have the power of entering their dwellings, accompanied by
"one of the police physicians, and if they are indisposed of
"compelling them to go into hospital."

COPENHAGEN.



The regulations at this place are on the same general footing as in Paris. In the third edition of Parent-Duchâtelet's work is contained a paper on the subject by M. Braestrup, Director of Police at Copenhagen. After noticing that the Code of Christian V., in 1683, was simply repressive, he goes on to say, "The general administration has not only tacitly tolerated the existence of prostitution, but it has given it indirectly a sort of sanction by a royal ordinance dated the 9th of March, 1809, which has remained in force since that time. The situation of the common women does not consequently depend upon any legal provisions; they are placed under the discretionary authority of the police, which has insensibly acquired the control of prostitution, as was demanded by public morality, security, and health." Brothels are not publicly licensed, and there are periodical examinations of registered prostitutes once a fortnight.

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M. BRAE-
STRUP,
DIRECTOR OF
POLICE.

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MADRID.



The regulations in force at Madrid are dated the 5th of November, 1865. The recent accession of the new King Alphonso was not an event likely to affect this part of the law (Jeannel : 467.) The following are extracted from the regulations :—

“The Government of the province of Madrid comprises
 “a section of special hygiene devoted to the sur-
 “veillance and repression of prostitution under the
 “Governor’s direction.”

REGISTERED WOMEN.

REGISTRATION.

All women must be registered who live habitually by a vile trade in their persons.

They are divided into two classes.

1. Women who have a fixed abode in tolerated houses.
2. Women who have a private abode, and practise prostitution there or in tolerated houses ; they are called “free” prostitutes.

The mistresses of tolerated houses and their servants are comprised in the first class and are subject to all the regulations which are imposed on prostitutes.

The servants of free prostitutes are likewise registered, but only if they practise prostitution like their mistresses.

Registration is always voluntary without detriment to the rights of third persons over the registered woman, and without diminishing her own general civil or criminal responsibility.

At the time of registration the woman will receive a card of health after a form approved by us. This card is designed to mark the result of the sanitary examinations.

A woman who, before she is registered, declares she has been seduced, did not know the consequences of her act, and

intends to lead an honest life, will be restored to her family, or sent to an institution designed to take the place of the family.

Each registration will be accompanied by a statement of the police, for the purpose of checking the woman's own assertions, and collecting all the information that is thought needful with respect to the degree of her moral perversity.

Registered women are subjected to ordinary and extraordinary medical inspections, as provided by the regulations ; and, furthermore, to those which are prescribed by a competent authority, as well as to all the measures designed to arrest the physical evils and scandals resulting from their infamous trade.

Prostitutes are forbidden to frequent public places and promenades at the hours at which they are frequented by the public, to let it be known what they are, and to occasion scandals by their presence. They are even forbidden to show themselves in the streets in a dress which might cause remark or distinguish them from respectable women ; to congregate more than two and two together, to stop to talk with men, to stay at their entrance gate or window, so as to allure passers-by, or to commit any other act likely to be an offence to morality and public decency.

Any one who wishes to abandon prostitution and give up her sanitary card, must present a request to the Governor, accompanied with evidence that she has been leading for some time past a regular life, that she has given up all her irregular relationships, that she has the means of obtaining a livelihood ; finally, she must be able to point to a respectable person who will be surety for her good conduct.

MEDICAL INSPECTION.

The *corps* of sanitary physicians are charged with the duty of examination and of medical and hygienic surveillance of persons and dwellings, under the immediate orders of the chief physician, who is in correspondence with the governors of the province, and addresses to him his reports on the service.

The sanitary physicians attend twice a week in the tolerated houses of their districts for the purpose—

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GENERAL
PROVISIONS
FOR REGIS-
TRATION AND
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INSPECTION.

1. Of ascertaining the sanitary condition of all registered women, and entering a report of it on their cards.
2. Of inspecting the houses from a hygienic point of view.
3. Of causing to be arrested every unregistered woman who is found in a tolerated house as well as every registered woman who is affected with disease ; the latter to be taken to the Hospital of St. John-of-God by the police agents who accompany the physician.

The examinations of free prostitutes will take place at their own dwelling, or at a tolerated house, according as they shall have given notice the week before.

As to women attached to a house, they will be examined in the house in which they reside.

The dues arising from sanitary examinations, the sale of cards, and the third part of fines (inflicted on mistresses of houses and prostitutes) form a special fund for meeting the personal and material expenses of the service, or of any other special service connected with *surveillance* that the Governor may institute.

A tax is exacted from the keepers of the houses, a higher amount being exacted in respect of those in which women do not reside, and the residents being assessed per head. Each woman is personally examined twice a week and one of these examinations is of the most searching and comprehensive kind.

ITALY.

—o—

February 15, 1860.

THE MINISTER OF THE INTERIOR,

APPENDIX.

In view of the Article 119 of the Law of the 15th of November, 1859, on Public Security, and the Article 65 of the "Regolamento" for its execution, approved by a Royal Decree, dated the 8th of January, 1860 :

We have resolved and do resolve, that the adjoined Regolamento on Prostitution to be carried into effect from the first of the next month of April be approved, and that from that time all the previous regulations be abolished.

Given from the Cabinet of the Interior, Turin, February 15th, 1860.

C. CAVOUR,

*Minister of the Interior.*SECTION I.—*Of the Sanitary Office.*

Art. 1. In the chief towns of provinces and departments a sanitary office, dependent on the "Office of Public Safety" shall be established. Where it may appear expedient, this office shall be established in connection with the Authorities charged with the Public Safety. The business of this office is the supervision of prostitutes.

Art. 2. A delegate of public safety presides as director over the sanitary office in the cities of Turin, Genoa, and Milan. He shall also exercise the functions of an accountant, and it shall be his duty to proceed against prostitutes, procurers, and brothel-keepers for any infraction of the present Regulation.

Art. 3. To the Sanitary Office there are attached policemen, in such numbers as the interest of the service

APPENDIX. demands, chosen from among those most distinguished for activity, good conduct, and honesty.

THE SANITARY OFFICE. Art. 4. The police attached to the Sanitary Office must exercise an active and continuous supervision over brothels, solitary prostitutes (those dwelling in private houses), procurers, and clandestine prostitution; they must obey all orders which, for the exact performance of the service, may be given to them by the director of the Sanitary Office, and must render to him an exact account of all their operations.

Art. 5. Policemen who, through negligence or connivance with prostitutes, shall fail in the performance of their duty, shall be punished by arrest, either in barracks or in the House of Correction, according to the gravity of the fault, in conformity with the regulation approved by the Royal Decree of January the 16th, 1860, and shall invariably be recalled to the ordinary service. He who under any pretence shall receive money or presents from brothel-keepers, prostitutes, or any person on their behalf, shall be punished with dismissal.

Art. 6. Rewards shall be given to such of the police attached to the sanitary office as, by zeal in the service or by exemplary conduct, shall prove themselves worthy of reward.

SECTION II.—*Of the Sanitary Service.*

Art. 7. In Turin, Genoa, and Milan the sanitary service is directed by an inspector. The sanitary inspector of Turin has the title of chief inspector, and watches over the execution of the hygienic provisions intended to prevent the diffusion of venereal diseases throughout the kingdom. He may propose the establishment of sanitary offices in any city in which he may believe them useful; he may advise the Minister in the selection of surgeons to be appointed to these offices; and, jointly with the other inspectors, shall take every precaution to insure the public health being protected in the best manner possible.

Art. 8. The chief inspector may be specially charged with the direction of the sanitary service in the provinces which

the Minister may think well to confide to his particular supervision. APPENDIX.

Art. 9. The inspectors are also intrusted with the direction of the female syphilitic hospital, or at least with its sanitary management. THE SANITARY SERVICE.

Art. 10. The inspectors present yearly to the Minister a report, showing the results obtained by the hygienic provisions prescribed by this Regulation.

Art. 11. To each sanitary office are attached a sufficient number of doctors, charged with the examination of prostitutes, in order that all registered women may be regularly and thoroughly examined. They are in direct relations with the inspector as regards all matters concerning the sanitary service of the prostitutes. An assistant surgeon may also be appointed in cities in which the chief inspector shall deem one necessary.

Art. 12. In case of legitimate hindrance, the surgeons intrusted with the sanitary inspection of prostitutes may fill each other's place, or may have their place supplied by another surgeon, subject always to the consent of the sanitary inspector. In offices to which an assistant surgeon is attached, he acts as the substitute of the regular surgeons.

Art. 13. The examining surgeons shall take part in the examinations (*alla visita*) at the syphilitic hospital once every week.

Art. 14. The examining surgeons may not treat any prostitute suffering from syphilis or any other malady, neither shall they receive payment from the same, nor from any person on her behalf. They shall exercise the greatest diligence, punctuality, and delicacy in the discharge of the duty imposed upon them of protecting the public health against all injury.

Art. 15. The examining surgeons must abstain from treating medically brothel-keepers or persons in their employment.

Art. 16. The inspectors and the visiting and assistant surgeons attached to the sanitary offices are appointed by the Ministry of the Interior for three years, and are eligible for re-appointment. They are divided into classes, and shall be entitled to the emoluments fixed in the annexed table according to the class to which they may belong.

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SECTION III.—Of Prostitutes.

REGISTRATION
OF PROSTITUTES.

Art. 17. All women who notoriously practise prostitution are considered as prostitutes, and are divided into two categories :—

1. Prostitutes dwelling in licensed brothels.
2. Solitary prostitutes (*le meretrici isolate*) ; viz., those living in a private residence.

The authorisation permitting a prostitute to remain in a private dwelling shall be conceded by the Questor, or by the Authorities charged with the Public Safety, with great caution and always conditionally on the consent of the proprietor of the house.

Art. 18. All prostitutes must be registered (*inscritte*) at the Sanitary Office.

Art. 19. The registration of a woman as a prostitute may take place either at her request or officially (*d'ufficio*). The official registration shall take place when it is notorious or proved that the woman has given herself up to prostitution.

Art. 20. Non-registered prostitutes shall be summoned to the Sanitary Office, and, in case of disobedience, on the authorisation of the Questor or the Authorities charged with the Public Safety, they shall be brought hither for registration.

Art. 21. For each official registration a minute shall be drawn up, setting forth circumstantially the motives which induced the office to inscribe the woman on the register of prostitutes. In it express mention shall be made that the woman has been informed of all the provisions of this Regulation with which she is concerned.

Art. 22. In the register shall be entered the name, surname, age, and country of the woman, and whether unmarried, married, or a widow ; the description of her appearance, the name and surname of her parents, her means, calling, and habitation. This register must be kept with the greatest care, and in accordance with Form No. 1.

Art. 23. At the time of registration the woman must immediately submit to examination.

Art. 24. The passport, with the certificate of birth and the other papers relating to the civil status of the woman

registered, are deposited with the office and carefully preserved. If the woman has no regular papers they shall be procured by means of inquiries instituted to ascertain her identity.

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PROSTITUTES.

Art. 25. If, from the interrogatories addressed to the woman at the time it shall appear that she has embraced a career of prostitution without having calculated the importance of the step, or not of her own free-will, and that she desires to abandon it, her family shall be immediately informed of the fact. In case of a woman not being able to return to her family, and desiring to be received into a penitentiary, the Office shall endeavour to facilitate her reception, taking due care that if she should leave the penitentiary before the expiration of a year, she shall not escape the supervision of the Sanitary Office.

Art. 26. Every prostitute, at the moment of registration, shall receive a book containing such articles of this Regulation as may concern her, the description of her appearance, and all other details relating to her. In the book shall be entered the sanitary examinations undergone, the name of the brothel to which the woman is attached, and, if solitary, the place of her abode. The books shall be stamped on a uniform pattern by the Ministry of the Interior.

Art. 27. Prostitutes are absolutely forbidden to give their book to others. They must always keep it close at hand, and show it whenever required to do so by the police agents. If they lose it, they must immediately provide themselves with another, on which the fact of its being a duplicate shall be marked.

Art. 28. Every prostitute, whether living in a brothel or in a private house, if she wishes to change her abode, must first request the permission of the Questor or the Authorities charged with the Public Safety through the Office, which will give its opinion on her request. The permission to prostitutes living in tolerated houses to remove into private lodgings shall be conceded only for reasons of family or health.

Art. 29. A prostitute cannot change her place of residence, or absent herself from it for more than three days,

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MEDICAL
CONTROL OF
PROSTITUTES.

without having obtained the assent of the Director of the Sanitary Office. In case of a change in her place of residence, the Office of the town she has quitted shall immediately notify the fact to the Office (if one exists) of the town to which she has removed; transmitting to it the description of her appearance and all other details concerning her.

Art. 30. When a prostitute is received into a common hospital (*ospedale civile*) on account of any casual illness, she, or the keeper of the brothel to which she is attached, shall inform the Sanitary Office of the fact. In like manner, her discharge from the hospital shall be notified to the Office, and on this occasion she shall undergo an extraordinary examination. During the woman's stay in hospital, her book shall remain in the custody of the Office.

Art. 31. The arrest of prostitutes or brothel-keepers ordered by the Authorities charged with the Public Safety, shall be immediately notified to the Sanitary Office. In such cases, the prostitute arrested shall be subjected to an extraordinary special examination.

Art. 32. Prostitutes are absolutely forbidden—

1. To live in the house of a vendor of spirituous liquors, wine, beer, or the like;
2. To go out of doors indecently dressed, or in a state of intoxication;
3. To show themselves at the windows, or to stand at the door even of their own dwellings;
4. To stand in or frequent the principal streets, squares, and public passages;
5. To act indecently in public places, or to make use of obscene language;
6. To follow passengers in the street, or to solicit them by words or signs;
7. To remain out of doors, without just cause, after eight o'clock in the evening, from the month of October to the month of March inclusive, and after ten o'clock in the other months of the year;
8. To circulate (*girovagare*) in the streets, especially those adjacent to their dwelling—above all in the evening.

9. Prostitutes are forbidden to frequent theatres; and such of them as shall appear there in an indecent fashion shall be punished.

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CONTROL OF
PROSTITUTES.

Art. 33. When a registered prostitute goes to live with a private person, she shall not, on that account, be exonerated from the obligation of examination, unless the said person shall prove to the Office his own means of subsistence, render himself responsible for the conduct of the woman during the time she remains in his house, declare that she is not there to practise prostitution, and undertake to inform the Office when she quits it.

Art. 34. When a prostitute desires to be relieved from the sanitary examination, she shall present her request to the Office, stating the new abode she intends to choose, her means of subsistence, or the occupation which is to suffice to procure them for her.

Art. 35. The woman who requests to be relieved from the ordinary examination, because she intends to abandon prostitution, shall, during three months, remain subjected to one examination weekly at the Sanitary Office, at an hour reserved exclusively for the examination of women who are candidates for this dispensation.

Art. 36. The cancelling of the registration shall take place after the lapse of this period, if the conduct of the woman has always been regular; that is to say, if it does not appear that she has continued to prostitute herself.

Art. 37. The woman who, after having been relieved from sanitary examination on the security of a private person, shall return to a life of prostitution without causing herself to be registered anew, shall be considered as a clandestine prostitute, and as such be officially registered, and punished according to the gravity of the case.

Art. 38. A prostitute shall be relieved from examination if, alleging marriage, she declares her intention of abandoning prostitution.

Art. 39. The prostitute who, six months after registration, shall present to the Office a certificate proving that she has deposited a sum in the savings bank, shall receive a premium in money equal to the twentieth of the whole amount paid in, if in that period of time she has not with-

APPENDIX.

drawn any sum previously deposited. If, however, the woman shall have withdrawn any sum from the savings bank, only the sums paid in eight months after shall be calculated as giving a claim to the premium.

SECTION IV.—*Of Brothels.*

Art. 40. Two categories of brothels are tolerated, viz. :—

1. Those in which prostitutes have a fixed domicile;
2. Those to which solitary prostitutes resort for the purpose of prostitution.

Art. 41. The two categories are subdivided into three classes :—

To the first class shall belong brothels to which admittance may be obtained on payment of five liras (9*d.*) and upwards.

To the second, those in which the price varies between two and five liras.

To the third, those in which the price is less than two liras.

Art. 42. The permission to open a brothel is conceded by the Authorities charged with the Public Safety. It is personal, and essentially temporary, and revocable, and shall not be conceded to any person who has been convicted of theft, or any other offence against persons or property. In the application a statement must be made of the street and the house in which it is intended to open a brothel, and the number of inmates intended for its use, the category to which it shall belong, and its tariff. The consent of the proprietor of the house, or of any other person interested therein must have been obtained. The candidate must undertake to submit to all the regulations of this order, as also to such provisions as may, from time to time, be deemed necessary.

Art. 43. The same individual shall never be permitted to have, at one and the same time, two or more brothels of different categories, nor to keep them by deputy.

Art. 44. The Authorities will never consent to the establishment of brothels in the frequented streets of the city, nor in the vicinity of educational establishments, public buildings, or places of public worship.

Art. 45. Brothel-keepers shall be under an obligation to see that the greatest cleanliness reigns in their houses, and to procure all articles which the surgeons may order for hygienic reasons. The windows of brothels must be provided with frosted (*appannati*) glass in winter, and with fixed and closed blinds in summer, to the height of two yards (*due metri*), measured from the floor of the room.

Art. 46. Brothel-keepers must insure the presence of all the prostitutes attached to their house on the day and at the hour appointed for the sanitary examinations.

Art. 47. Provocation to vice on the part of brothel-keepers, and of procurers and procuresses, shall be punished according to the terms of the penal code.

Art. 48. Brothel-keepers shall not oppose themselves on any pretence, either by day or by night, to the visits of the police, when they may be considered necessary in the interests of the public safety.

Art. 49. Brothel-keepers shall not admit any prostitute into their houses without giving immediate information of their having done so to the Sanitary Office. The number of prostitutes in each brothel shall be determined by the Sanitary Office.

Art. 50. Brothel-keepers of both categories shall furnish to the Sanitary Office the name, surname, age, and country of the persons in their employment. When the Office shall deem it to be necessary, the female servants (under the age of forty) and the mistress of the brothel (if unmarried or living apart from her husband) can also be subjected to examination. In both cases the sanitary examination is gratuitous.

Art. 51. In brothels of both categories there shall be kept, at the charge of the keeper of the same, a register, examined and *viséd* by the Sanitary Office, on single pages of which shall be inscribed the name, surname, age, country, and last place of residence of each prostitute; the date at which

APPENDIX.
REGULATION
OF BROTHELS.

she has entered and that at which she has quitted the brothel, as also the new abode which, on leaving, she shall declare that she has chosen.

Art. 52. When a prostitute shall desire to leave a brothel, or shall be dismissed from it by its keeper, the latter shall take her to the Sanitary Office, in order that the needful annotations may be added to the register and to the prostitute's book.

Art. 53. Every prostitute found in a brothel of either category without the prescribed book, and without the declaration mentioned in Article 49 having been made, shall be considered as practising clandestine prostitution. The brothel-keeper in such cases shall be punished by the suspension or revocation of his licence.

Art. 54. At the sole charge of brothel-keepers of the first category shall be :—

1. The maintenance of the prostitutes, and the cost of all articles worn by them either in the house or in the street ; the amount due for their sanitary examination ; and the expenses of non-venereal disease treated in the brothel.
2. Also, whilst a prostitute is in the syphilitic hospital, her clothes, linen, and all expenses that may be incurred for the washing of the same.

Art. 55. When a prostitute shall have been received into a brothel, the keeper of the same shall proceed immediately to make an inventory of the clothes and other articles belonging to the woman, and these shall be described in a suitable register which must be kept for the purpose. When the brothel-keeper has made any payment on account of the prostitute, he shall immediately make a declaration to that effect to the office, and present the receipt.

Art. 56. During the sojourn of a prostitute in a brothel she shall not be obliged to make use of articles belonging to her ; these must remain in the custody of the brothel-keeper and shall be restored to her when she leaves his house, along with anything that she may have acquired with her own money, and which shall have been added to the inventory.

The registers containing the inventory of articles belonging to prostitutes shall be verified and certified by the Sanitary Office. Brothel-keepers shall not, under any pretext, lend money at interest to the prostitutes living in their houses, nor make any profit out of the same.

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REGULATION
OF BROTHELS.

Art. 57. Three-fourths of the earnings of prostitutes in brothels of the first category shall belong to the brothel-keeper, the remaining fourth shall be retained by the woman. In brothels of the second category two-thirds shall belong to the prostitute, and one-third to the brothel-keeper. The division of the entrance money shall take place fortnightly. The prostitutes who have debts to be deducted which have been recognised by the Sanitary Office, shall renounce the half of their share in payment of the said debts. The deduction shall be entered in a special register, which shall be inspected by the Office whenever it may be thought needful.

Art. 58. Brothel-keepers are absolutely forbidden to subject prostitutes to fine for any offence, or to maltreat them.

Art. 59. In like manner brothel-keepers are forbidden to admit into their houses girls who have not yet attained the age of sixteen. In case of disobedience their licence shall be revoked.

Art. 60. If any prostitute should manifest an intention to abandon prostitution, the brothel-keeper shall immediately give information of her wish to the director of the Sanitary Office, by whom she shall be encouraged to carry it into execution. In such cases the fact of the prostitute being in debt to the brothel-keeper shall not be an obstacle to her leaving the tolerated house.

Art. 61. The brothel-keepers of both categories in Turin, Milan, and Genoa, shall pay to the Office, besides the amount exacted for the sanitary examination of the prostitutes dwelling in their house, a fixed annual sum as follows :—

For Brothels of the 1st category and of the 1st class, 400*lir.* (say) £15.

For " " 1st " " 2nd " 200*lir.*

For " " 1st " " 3rd " 100*lir.*

For " " 2nd " " 1st " 200*lir.*

For " " 2nd " " 2nd " 100*lir.*

For " " 2nd " " 3rd " 60*lir.*

APPENDIX. The payments for the sanitary examinations shall be made fortnightly, and those of the fixed sums enumerated above every three months in advance. In all other cities the tax may be reduced by one-third.

**REGULATION
OF BROTHELS.**

Art. 62. The brothel-keepers of each category shall always keep affixed in a visible place an extract from the articles of this order relative to brothels, in which shall be stated in large characters the class to which the brothel belongs. They are forbidden to alter their tariff without having notified their intention of so doing to the Sanitary Office.

Art. 63. Every dispute that may arise between prostitutes and brothel-keepers or procurers, when not of a nature to be brought before a court of justice, shall be referred to the Sanitary Office, with a view to measures of conciliation.

Art. 64. The Office of the Questor or Authorities charged with the Public Safety shall order the immediate closing of clandestine brothels, that is to say, such as shall have been opened without permission and the women who may have been found there for purposes of prostitution shall be inscribed on the register of prostitutes.

Art. 65. In brothels of both categories gambling of all sorts shall be forbidden, also the furnishing of food or liquors of any kind.

Art. 66. All articles left by mistake in a brothel shall be carried immediately to the Sanitary Office.

Art. 67. Brothels shall be shut within the hours that may be appointed by the Sanitary Office, in accordance with the orders issued by the Office of the Questor or that of Public Safety.

Art. 68. Brothel-keepers shall not absent themselves from their place of residence without having obtained permission from the director of the Sanitary Office.

SECTION V.—Of the Sanitary Examinations.

**SANITARY EX-
AMINATIONS.**

Art. 69. At every Sanitary Office a room is set apart for the examination of prostitutes.

Art. 70. The room devoted to the sanitary examination is open every day, Sundays excepted, at such hours as may be appointed.

Art. 71. All registered prostitutes shall be subject to two sanitary examinations weekly, or one every three days. The

sanitary examinations shall be regularly entered in a register kept by the Office, according to the Form No. 3. APPENDIX.

Art. 72. The sanitary examinations of prostitutes shall be made with the greatest care, and with all the appliances which in the actual state of science are recognised as useful in rendering more certain the diagnosis of venereal diseases. SANITARY EX-AMINATIONS.

Art. 73. The prostitutes attached to brothels of the first class are examined at the house. Those who belong to brothels of the second class are examined either at the brothel or at the Sanitary Office, as shall be settled by arrangements made between the Director and the Inspector.

Art. 74. Solitary prostitutes are examined in the room set apart for the purpose at the Sanitary Office. Nevertheless it shall be open to them to be examined at home, on payment to the office of four examinations in advance, at the rate of 1lir. 50c. for each examination.

Art. 75. In Turin, Milan, and Genoa, the examination in the room attached to the Sanitary Office is carried out simultaneously by two visiting surgeons. In the capitals and in the chief towns of provinces and departments in which the number of solitary prostitutes to be examined at the office is considerable, they are divided into three divisions, in such wise that only the third part of the whole number shall be examined each day. The office shall provide whatever may be necessary to insure that the examination be carried out with the greatest possible accuracy.

Art. 76. The examinations of prostitutes in brothels, and of those living alone who may desire to be examined at home, is divided amongst the visiting surgeons in such wise that all the prostitutes are in turn examined by each surgeon. Where the total number is divided into three divisions, these are assigned in succession to the visiting surgeons, and changed at each examination.

Art. 77. A prostitute, dwelling alone or in a brothel, who shall not be found at home on the day and at the hour appointed for the Surgeon's visit, must present herself the same day for examination at the Office.

Art. 78. A prostitute who shall miss the sanitary examination, without having previously given notice to the

APPENDIX. Office, shall be arrested and brought thither to be examined.
SANITARY EX- In case of a repetition of the offence, and also if any obstacles
AMINATIONS. are put in the way of a minute and exact examination, such as ought to be made by the Examining Surgeon, a prostitute may be subjected to coercive measures, according to the gravity of the case.

Art. 79. If the solitary prostitute shall during three consecutive months have presented herself punctually for examination at the Sanitary Office on the appointed days, and shall have paid regularly the sum charged for the examination, the whole sum paid by her shall be restored to her in the third month.

Art. 80. Solitary prostitutes confined to bed by accidental illness are examined at home, and the visit is gratuitous. A woman who shall prove to be affected with syphilis shall immediately be removed for treatment to the syphilitic hospital.

Art. 81. Extra-ordinary examinations shall be made whenever they may be considered necessary. Extra-ordinary examinations shall not exempt prostitutes from the ordinary examinations. No charge shall be made for the extra-ordinary examinations either in brothels or at the Office.

Art. 82. The Surgeons, both after the ordinary and the extra-ordinary examinations, shall enter in the books of the prostitutes, and also in the register kept at the Office, the day of the visit, the sanitary condition of the woman, and any observations which they may think relevant. The visits paid to prostitutes in brothels shall also be entered in the register kept in each house, in accordance with Article 51 of this Regulation. All such declarations shall be signed by the Visiting Surgeon.

Art. 83. Every prostitute discovered to be suffering from primitive or constitutional syphilis or from any other contagious disease shall be sent immediately to the syphilitic hospital, with a medical certificate stating the nature and seat of the malady. The woman who shall show any doubtful symptoms of syphilitic infection shall also be removed to the syphilitic hospital, where she shall be kept under observation until it shall have been ascertained whether she is, or is not, diseased.

Art. 84. The prostitute who, at an examination at the Sanitary Office, is shown to be infected, is removed immediately for treatment to the syphilitic hospital, at the charge of the Office. Every transfer of a prostitute from the Office to the syphilitic hospital, or *vice versâ*, shall, if possible, be accomplished in a carriage. A prostitute living in a brothel, and declared by the Visiting Surgeons to be infected, shall, with the shortest possible delay, come accompanied to the syphilitic hospital, at the charge, and on the responsibility, of the brothel-keeper, who shall take care meantime that she has no sexual relations. In case of a transgression of the rule, a brothel-keeper may be deprived of his licence. Women declared to be infected shall be entered in a special register (following Form No. 4), with a statement of the general facts concerning them, their habitation, the nature of their malady, the name of the Sanitary Officer who may have examined them, and all other observations that he may have made.

Art. 85. Whenever, in a locality where sanitary examinations take place, there shall be no syphilitic hospital, or, there being one, it shall be inadequate to contain all infected prostitutes; such women shall be kept in safe custody until transferred to the nearest venereal hospital in which there may be room, those women being selected for transfer who may present severe forms of syphilis demanding long and regular treatment.

Art. 86. A prostitute who, after having been pronounced infected, instead of presenting herself at the Office for removal to the syphilitic hospital, shall absent herself, shall be immediately arrested and taken to the syphilitic hospital by force, and on her discharge from the same shall be punished with from five to fifteen days' imprisonment.

Art. 87. During the sojourn of a prostitute in the syphilitic hospital her book shall be deposited at the Sanitary Office. On her recovery, she shall present herself to the Office to give up her ticket of discharge, and to declare her place of abode.

Art. 88. When a prostitute, being with child, shall have passed the seventh month of her pregnancy, she shall be sent, if healthy, to the lying-in hospital; if infected, she

APPENDIX.
SANITARY EX-
AMINATIONS.

shall be treated in the syphilitic hospital until cured, and then transferred to the lying-in hospital. A prostitute who has the means of subsistence may be confined at the house of a licensed midwife, always provided she has obtained the consent of the Office.

Art. 89. Prostitutes and brothel-keepers shall obey the orders of the Surgeons as regards all the hygienic measures which these latter may prescribe.

SECTION VI.—*Miscellaneous Provisions.*

Art. 90. In the principal cities, the Sanitary Office shall transmit to the Authorities charged with the Public Safety for the divisions a note stating the name, surname, age, and country, of the prostitutes inhabiting their several divisions, and the changes of domicile of the said prostitutes as they take place from week to week.

Art. 91. The register which the brothel-keepers are to keep in accordance with Article 51, and the extract from this Order mentioned in Article 62, shall be provided by the Sanitary Office on payment of the price of the stamp.

Art. 92. The books with which prostitutes are to be furnished shall be paid for them at the time of their issue, as under, *viz.* :—

For prostitutes attached to brothels, 2*lir.* For prostitutes of the first class living in a private house, according to the distinction established by Article 46, 2*lir.* For prostitutes of the second class living in a private house, 1*lir.* For prostitutes of the third class, 60*c.* The books must be renewed annually.

Art. 93. For each sanitary visit paid to a prostitute living in a private house, or at her own home, a fixed sum of 1*lir.* 50*c.* shall be paid. For each sanitary visit in brothels of the first category, 1*lir.* 50*c.* For each sanitary visit paid to prostitutes of the first class at the Sanitary Office, 1*lir.*, every Monday and Thursday; of the second class, 50*c.*, every Tuesday and Friday; of the third class, gratis, every Wednesday and Saturday. In this last class only the poor are included.

Art. 94. The taxes imposed on prostitutes and brothel-keepers shall be paid to the Director of the Sanitary Office,

and are applied to defray the necessary expenses of the supervision of prostitution. APPENDIX.

Art. 95. The Director of the Sanitary Office, besides the registers mentioned in Articles 22, 71, and 84, shall also keep one for the registration of the licences of brothel-keepers, in which shall be stated the date of the concession, the name of the person to whom it is granted, the sum to be paid by him yearly, and that to be paid by him every three months. MISCELLANEOUS PROVISIONS.

[This Register must follow Form No. 5.]

Art. 96. The accounts must every three months be extracted by the Director from the Registers No. 3, and No. 5, and graphically represented in a table (*quadro*), from which the total number of examinations made and of books distributed will at once appear.

[This table must follow Form No. 6.]

Art. 97. The expenses incurred by the office during the three months for superintendence and other matters must be entered in a register and classified under their heads in the way prescribed by Form No. 7.

Art. 98. For making the accounts the rules shall be observed which shall be laid down by the Minister of the Interior, and the general summary of accounts shall be compiled in exact accordance with Form No. 8.

*Passed by order of the Minister,
The Director, Chief of the Division.*

BORON ANGELO.

LAW ON PUBLIC SECURITY.

20th March, 1865.

CAP. II.—*Provisions for Public Morality.*

Art. 86. The Authority charged with the Public Safety will provide for the arrest of all persons who clandestinely occupy themselves with prostitution (*che esercitano clandestinamente case di prostituzione*).

In the interests of order and public morals, as well as of public health, the Government may make Regulations in respect of women who abandon themselves to a meretricious life.

APPENDIX.

GREAT BRITAIN.

—o—

ANNO VICESIMO NONO
VICTORIÆ REGINÆ.

CAP. XXXV.

An Act for the better Prevention of Contagious Diseases
at certain Naval and Military Stations.

[11th *June*, 1866.

BE it enacted by the Queen's most Excellent Majesty, by and
with the advice and consent of the Lords Spiritual and Tem-
poral, and Commons, in this present Parliament assembled,
and by the authority of the same, as follows :

Preliminary.

Short Title.

1. This Act may be cited as The Contagious Diseases
Act, 1866.

Interpretation
of terms.

2. In this Act—

The term "contagious disease" means venereal disease,
including gonorrhœa :

The term "police" means metropolitan police or other
police or constabulary authorized to act in any part
of any place to which this Act applies :

The term "superintendent" includes inspector :

The term "chief medical officer" means the principal
physician or surgeon for the time being attached to
or doing duty at a hospital, or the house surgeon or
resident surgeon of the hospital :

The term "justice" means a justice of the peace having
jurisdiction in the county, borough, or place where
the matter requiring the cognizance of a justice
arises, or in any part of any place to which this
Act applies :

The term "two justices" means two or more justices assembled and acting together, and includes any police or stipendiary magistrate or other justice having by law for any purpose the powers of two justices. APPENDIX.

3. This Act shall commence from and immediately after the thirtieth day of September one thousand eight hundred and sixty-six, and, on the commencement of the Act, the Contagious Diseases Prevention Act, 1864, shall cease to operate; but the discontinuance of that Act by this Act shall not affect the validity or invalidity of anything done or suffered before the commencement of this Act; and that discontinuance or anything in this Act shall not apply to or in respect of any offence, act, or thing committed or done or omitted before the commencement of this Act; and every such offence, act, or thing shall after and notwithstanding the commencement of this Act have the same consequences and effect in all respects as if the Contagious Diseases Prevention Act, 1864, had not been discontinued. Act to commence from Sept. 30, 1866, and then 27 & 28 Vict. c. 85, to cease to operate, except, &c.

Every order of a justice under the said Act shall remain in force as if this Act had not been passed.

Every hospital certified under the said Act shall continue to be a certified hospital, for the purposes of this Act, for three months after the commencement of this Act, unless before the expiration of that time the certificate is withdrawn, or the hospital is certified under this Act; and every hospital certified under this Act shall be deemed a certified hospital for the purposes of the said Act, as long as the operation thereof continues for any purpose under this Act.

Extent of Act.

4. The places to which this Act applies shall be the places mentioned in the first schedule to this Act, the limits of which places shall for the purposes of this Act be such as are defined in that schedule. Act to extend only to places in schedule.

Expenses of Execution of Act.

5. Expenses incurred in the execution of this Act shall Expenses of

APPENDIX.
 Act to be
 defrayed by
 Admiralty.

be paid under the direction of the Lord High Admiral of the United Kingdom, or the Commissioners for executing the office of Lord High Admiral (hereafter in this Act styled the Admiralty), and of such one of Her Majesty's principal Secretaries of State as Her Majesty thinks fit for the time being to intrust with the seals of the War Department (hereafter in this Act styled the Secretary of State for War) out of money to be provided by Parliament for that purpose.

Visiting Surgeons.

Appointment
 of visiting
 surgeons and
 assistants.

6. The Admiralty or the Secretary of State for War, may, on the commencement of this Act, appoint a medical officer for each of the places to which this Act applies, to be, during pleasure, visiting surgeon there for the purposes of this Act, and may, from time to time, on the death, resignation, or removal from office, of any visiting surgeon, appoint another such officer in his stead.

The Admiralty or the Secretary of State for War may, from time to time as occasion requires, appoint a medical officer to be the assistant of any such visiting surgeon; and every such assistant shall have the like powers and duties as the visiting surgeon to whom he is appointed assistant.

A notice of the appointment of every such visiting surgeon and of every such assistant shall be published in the *London* or *Dublin Gazette* according as the place for which he is appointed is in England or in Ireland.

A copy of the Gazette containing such a notice shall be conclusive evidence of the appointment.

Inspector of Hospitals.

Appointment
 of inspector
 and assistant
 inspector of
 certified
 hospitals.

7. The Admiralty and the Secretary of State for War shall, on the commencement of this Act, appoint a medical officer to be, during pleasure, inspector of certified hospitals under this Act, and shall from time to time, on the death, resignation, or removal from office of any such inspector, appoint another such officer in his stead.

The Admiralty and the Secretary of State for War may, APPENDIX.
 from time to time as occasion requires, appoint a medical
 officer to be an assistant inspector of certified hospitals under
 this Act, which assistant shall have the like powers and duties
 as the inspector.

A notice of the appointment of every such inspector
 and of every such assistant shall be published in the *London*
Gazette.

A copy of the Gazette containing such a notice shall be
 conclusive evidence of the appointment.

Certified Hospitals.

8. The Admiralty or the Secretary of State for War may
 from time to time provide any buildings or parts of buildings
 as hospitals for the purposes of this Act, and any building
 or part of a building so provided and certified in writing by
 the Admiralty or Secretary of State for War (as the case may
 be) to be so provided shall be deemed a certified hospital
 under this Act; and every certified hospital so provided shall
 be placed under the control or management of such persons
 as to the Admiralty or the Secretary of State for War from
 time to time seems fit.

Power to
 Admiralty,
 &c., to provide
 hospitals, and
 certify them.

9. The Admiralty or the Secretary of State for War may
 from time to time, on such application or with such consent
 as to them or him seems requisite, and on the report of the
 inspector of certified hospitals, certify in writing any building
 or part of a building (not provided as a hospital by the
 Admiralty or Secretary of State for War) to be useful and
 efficient as a hospital for the purposes of this Act, and there-
 upon that building or part of a building shall be deemed a
 certified hospital under this Act.

Power to
 certify other
 hospitals.

10. The inspector of certified hospitals shall from time to
 time visit and inspect every certified hospital.

Inspection of
 certified
 hospitals.
 Power to
 withdraw
 certificate.

11. The Admiralty or the Secretary of State for War
 may at any time, by declaration in writing, declare the certi-
 ficate relative to any certified hospital withdrawn as from a
 time specified in the declaration, and thereupon the same

APPENDIX. shall cease to be a certified hospital as from the time so specified.

Provision
for moral and
religious in-
struction.

12. A hospital shall not be certified under this Act unless at the time of the granting of a certificate adequate provision is made for the moral and religious instruction of the women detained therein under this Act; and if at any subsequent time it appears to the Admiralty or the Secretary of State for War that in any such hospital adequate provision for that purpose is not made, the certificate of that hospital shall be withdrawn.

Certificate and
declaration of
withdrawal
to be gazetted.

13. Every certificate and every declaration of withdrawal of a certificate relative to any hospital under this Act shall be published in the *London* or *Dublin Gazette*, according as the hospital to which the certificate or declaration relates is in England or in Ireland.

A copy of the Gazette containing any such certificate or declaration shall be conclusive evidence of such certificate or declaration.

Every certificate proved to have been made shall be presumed to be in force until the withdrawal thereof is proved.

Power to
make regula-
tions for certi-
fied hospitals.

14. The managers or persons having the control or management of each certified hospital shall make regulations for the management and government of the hospital, as far as regards women authorized by this Act to be detained therein for medical treatment, or being therein under medical treatment for a contagious disease, such regulations not being inconsistent with the provisions of this Act, and may from time to time alter any such regulations; but all such regulations, and all alterations thereof, shall be subject to the approval in writing of the Admiralty or the Secretary of State for War.

A printed
copy of regula-
tions to be
evidence.

A printed copy of regulations purporting to be regulations of a certified hospital so approved, such copy being signed by the inspector of certified hospitals, or the chief medical officer of the hospital, shall be evidence of the regulations of the hospital, and of the due making and approval thereof, for the purposes of this Act.

*Periodical Medical Examinations.*APPENDIX.

15. Where an information on oath is laid before a justice by a superintendent of police, charging to the effect that the informant has good cause to believe that a woman therein named is a common prostitute, and either is resident within the limits of any place to which this Act implies, or, being resident within five miles of those limits, has, within fourteen days before the laying of the information, been within those limits for the purpose of prostitution, the justice may, if he thinks fit, issue a notice thereof addressed to such woman, which notice the superintendent of police shall cause to be served on her :

On information, a justice may issue notice to woman who is a common prostitute.

Provided that nothing in this Act contained shall apply or extend, in the case of Woolwich, to any woman who is not resident within one of the parishes of Woolwich, Plumstead, or Charlton.

16. In either of the following cases, namely,—

Power to justice to order periodical medical examination.

If the woman on whom such a notice is served appears herself, or by some person on her behalf, at the time and place appointed in the notice, or at some other time and place appointed by adjournment ;—

If she does not so appear, and it is shown (on oath) to the justice present that the notice was served on her a reasonable time before the time appointed for her appearance, or that reasonable notice of such adjournment was given to her (as the case may be),—

The justice present, on oath being made before him substantiating the matter of the information to his satisfaction, may, if he thinks fit, order that the woman be subject to a periodical medical examination by the visiting surgeon for any period not exceeding one year, for the purpose of ascertaining at the time of each such examination whether she is affected with a contagious disease ; and thereupon she shall be subject to such a periodical medical examination, and the order shall be a sufficient warrant for the visiting surgeon to conduct such examination accordingly.

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The order shall specify the time and place at which the woman shall attend for the first examination.

The superintendent of police shall cause a copy of the order to be served on the woman.

Voluntary
submission by
woman.

17. Any woman, in any place to which this Act applies, may voluntarily, by a submission in writing signed by her in the presence of and attested by the superintendent of police, subject herself to a periodical medical examination under this Act for any period not exceeding one year.

Power to
make regula-
tions as to
examinations.

18. For each of the places to which this Act applies, either the Admiralty or the Secretary of State for War (but not both for any one place) may from time to time make regulations respecting the times and places of medical examinations under this Act at that place, and generally respecting the arrangements for the conduct there of those examinations; and a copy of all such regulations from time to time in force for each place shall be sent by the Admiralty or the Secretary of State for War (as the case may be) to the clerk of the peace, town clerk (if any), clerk of the justices, visiting surgeon, and superintendent of police.

Visiting sur-
geon to pre-
scribe times,
&c.

19. The visiting surgeon, having regard to the regulations aforesaid and to the circumstances of each case, shall at the first examination of each woman examined by him, and afterwards from time to time as occasion requires, prescribe the times and places at which she is required to attend again for examination; and he shall from time to time give or cause to be given to each such woman notice in writing of the times and places so prescribed.

Detention in Hospital.

Certificate of
visiting sur-
geon.

20. If on any such examination the woman examined is found to be affected with a contagious disease, she shall thereupon be liable to be detained in a certified hospital subject and according to the provisions of this Act, and the visiting surgeon shall sign a certificate to the effect that she is affected with a contagious disease, naming the certified hospital in which she is to be placed; and he shall sign that certificate in triplicate, and shall cause one of the originals to

be delivered to the woman and the others to the superintendent of police.

21. Any woman to whom any such certificate of the visiting surgeon relates may, if she thinks fit, proceed to the certified hospital named in that certificate, and place herself there for medical treatment, but if after the certificate is delivered to her she neglects or refuses to do so, the superintendent of police, or a constable acting under his orders, shall apprehend her, and convey her with all practicable speed to that hospital, and place her there for medical treatment, and the certificate of the visiting surgeon shall be a sufficient authority to him for so doing.

Placing in
certified
hospital for
treatment.

The reception of a woman in a certified hospital by the managers or persons having the control or management thereof shall be deemed to be an undertaking by them to provide for her care and treatment, lodging, clothing, and food, during her detention in the hospital.

22. Where a woman certified by the visiting surgeon to be affected with a contagious disease places herself, or is placed as aforesaid, in a certified hospital for medical treatment, she shall be detained there for that purpose by the chief medical officer of the hospital until discharged by him by writing under his hand.

Detention in
hospital.

The certificate of the visiting surgeon, one of the three originals whereof shall be delivered by the superintendent of police to the chief medical officer, shall, when so delivered, be sufficient authority for such detention.

23. The inspector of certified hospitals may, if in any case it seems to him expedient, by order in writing signed by him, direct the transfer of any woman detained in a certified hospital for medical treatment from that certified hospital to another named in the order.

Power to
transfer
to another
certified
hospital.

Every such order shall be made in triplicate, and one of the originals shall be delivered to the woman and the others to the superintendent of police.

Every such order shall be sufficient authority for the superintendent of police or any person acting under his orders to transfer the woman to whom it relates from the one hospital to the other, and to place her there for medical treatment ;

APPENDIX.

and she shall be detained there for that purpose by the chief medical officer of the hospital until discharged by him by writing under his hand.

The order of the inspector of certified hospitals, one of the originals whereof shall be delivered by the superintendent of police to the chief medical officer of the hospital to which the transfer is made, shall when so delivered be sufficient authority for such detention.

Limitation of detention.

24. Provided always, that any woman shall not be detained under any one certificate for a longer time than three months, unless the chief medical officer of the hospital in which she is detained, and the inspector of certified hospitals, or the visiting surgeon for the place whence she came or was brought, conjointly certify that her further detention for medical treatment is requisite (which certificate shall be in duplicate, and one of the originals thereof shall be delivered to the woman); and in that case she may be further detained in the hospital in which she is at the expiration of the said period of three months by the chief medical officer until discharged by him by writing under his hand; but so that any woman be not detained under any one certificate for a longer time in the whole than six months.

Power for woman detained to apply to justice for discharge.

25. If any woman detained in any hospital considers herself entitled to be discharged therefrom, and the chief medical officer of the hospital refuses to discharge her, such woman shall on her request be conveyed before a justice, who, if he is satisfied upon reasonable evidence that she is free from a contagious disease, shall discharge her from such hospital, and such order of discharge shall have the same effect as the discharge of the chief medical officer.

During conveyance to certified hospital, &c., woman deemed to be in legal custody.

26. Every woman conveyed or transferred under this Act to a certified hospital shall, while being so conveyed or transferred thither, and also while detained there, be deemed to be legally in the custody of the person conveying, transferring, or detaining her, notwithstanding that she is for that purpose removed out of one into or through another jurisdiction, or is detained in a jurisdiction other than that in which the certificate of the visiting surgeon was made.

Expenses of woman's return home.

27. Every woman shall, on her discharge from the

hospital, be sent to the place of her residence, if she so desires, without expense to herself. APPENDIX.

Refusal to be examined, &c.

28. In the following cases, namely,—

If any woman subjected by order of a justice under this Act to periodical medical examination at any time temporarily absents herself in order to avoid submitting herself to such examination on any occasion on which she ought so to submit herself, or refuses or wilfully neglects to submit herself to such examination on any such occasion : Punishment
of women
for refusing to
be examined,
&c.

If any woman authorized by this Act to be detained in a certified hospital for medical treatment quits the hospital without being discharged therefrom by the chief medical officer thereof by writing under his hand (the proof whereof shall lie on the accused) :

If any woman authorized by this Act to be detained in a certified hospital for medical treatment, or any woman being in a certified hospital under medical treatment for a contagious disease, refuses or wilfully neglects while in the hospital to conform to the regulations thereof approved under this Act ;

Then and in every such case such woman shall be guilty of an offence against this Act, and on summary conviction shall be liable to imprisonment, with or without hard labour, in the case of a first offence for any term not exceeding one month, and in the case of a second or any subsequent offence for any term not exceeding three months ; and in the case of the offence of quitting the hospital without being discharged as aforesaid the woman may be taken into custody without warrant by any constable.

29. If any woman is convicted of and imprisoned for the offence of absenting herself or of refusing or neglecting to submit herself to examination as aforesaid, the order subjecting her to periodical medical examination shall be in force after and notwithstanding her imprisonment, unless the sur- Effect of order
of imprison-
ment for
absence, &c.
from examina-
tion.

APPENDIX.

Effect on
order of im-
prisonment for
quitting
hospital, &c.

geon or other medical officer of the prison, or a visiting surgeon appointed under this Act, at the time of her discharge from imprisonment, certifies in writing to the effect that she is then free from a contagious disease (the proof of which certificate shall lie on her), and in that case the order subjecting her to periodical medical examination shall, on her discharge from imprisonment, cease to operate.

30. If any woman is convicted of and imprisoned for the offence of quitting a hospital without being discharged, or of refusing or neglecting while in a hospital to conform to the regulations thereof as aforesaid, the certificate of the visiting surgeon under which she was detained in the hospital shall continue in force, and on the expiration of her term of imprisonment she shall be sent back from the prison to that certified hospital, and shall (notwithstanding anything in this Act) be detained there under that certificate as if it were given on the day of the expiration of her term of imprisonment, unless the surgeon or other medical officer of the prison, or a visiting surgeon appointed under this Act, at the time of her discharge from imprisonment, certifies in writing to the effect that she is then free from a contagious disease (the proof of which certificate shall lie on her), and in that case the certificate under which she was detained, and the order subjecting her to periodical medical examination, shall, on her discharge from imprisonment, cease to operate.

Penalty on
woman
discharged
uncured con-
ducting herself
as prostitute.

31. If on any woman leaving a certified hospital a notice in writing is given to her by the chief medical officer of the hospital to the effect that she is still affected with a contagious disease, and she is afterwards in any place for the purpose of prostitution without having previously received from a visiting surgeon appointed under this Act a certificate in writing endorsed on the notice or on a copy thereof certified by the chief medical officer of the hospital (proof of which certificate shall lie on her) to the effect that she is then free from a contagious disease, she shall be guilty of an offence against this Act, and on summary conviction before two justices shall be liable to be imprisoned with or without hard labour, in the case of a first offence for any term not exceeding one month, and in the case of a second or any subsequent offence for any term not exceeding three months.

*Duration of Order.*APPENDIX.

32. Every order under this Act subjecting a woman to periodical medical examination shall be in operation and enforceable, in manner in this Act provided, as long as and whenever from time to time the woman to whom it relates is resident within the limits of the place to which this Act applies wherein the order was made, or within five miles of those limits, but not in any case for a longer period than one year; and where the chief medical officer of a certified hospital, on the discharge by him of any woman from the hospital, certifies that she is free from a contagious disease (proof of which certificate shall lie on her), the order subjecting her to periodical medical examination shall thereupon cease to operate.

Relief from Examination.

33. If any woman subjected to a periodical medical examination under this Act (either on her own submission or under the order of a justice), desiring to be relieved therefrom, and not being under detention in a certified hospital, makes application in writing in that behalf to a justice, the justice shall appoint by notice in writing a time and place for the hearing of the application, and shall cause the notice to be delivered to the applicant, and a copy of the application and of the notice to be delivered to the superintendent of police.

34. If on the hearing of the application it is shown, to the satisfaction of a justice, that the applicant has ceased to be a common prostitute, or if the applicant, with the approval of the justice, enters into a recognizance, with or without sureties, as to the justice seems meet, for her good behaviour during three months thereafter, the justice shall order that she be relieved from periodical medical examination.

35. Every such recognizance shall be deemed to be forfeited if at any time during the term for which it is entered into the woman to whom it relates is (within the limits of any place to which this Act applies) in any public thoroughfare,

APPENDIX. street, or place for the purpose of prostitution, or otherwise (within those limits) conducts herself as a common prostitute.

Penalties for harbouring, &c.

Penalties for permitting prostitute having contagious disease to resort to any house, &c., for prostitution.

36. If any person, being the owner or occupier of any house, room, or place within the limits of any place to which this Act applies, or being a manager or assistant in the management thereof, having reasonable cause to believe any woman to be a common prostitute and to be affected with a contagious disease, induces or suffers her to resort to or be in that house, room, or place for the purpose of prostitution, he shall be guilty of an offence against this Act, and on summary conviction thereof before two justices shall be liable to a penalty not exceeding twenty pounds, or, at the discretion of the justices, to be imprisoned for any term not exceeding six months, with or without hard labour :

Provided that a conviction under this enactment shall not exempt the offender from any penal or other consequences to which he may be liable for keeping or being concerned in keeping a bawdy house or disorderly house, or for the nuisance thereby occasioned.

Procedure, &c.

Application of 11 & 12 Vict., c. 43, and 14 & 15 Vict., c. 93, to this Act.

37. All proceedings under this Act before and by justices shall be had in England according to the provisions of the Act of the session of the eleventh and twelfth years of Her Majesty (chapter forty-three), "to facilitate the performance " of the duties of justices of the peace out of sessions within " England and Wales with respect to summary convictions " and orders," and in Ireland according to the provisions of the Petty Sessions (Ireland) Act, 1851, as far as those provisions respectively are not inconsistent with any provision of this Act, and save that the room or place in which a justice sits to inquire into the truth of the statements contained in any information or application under this Act against or by a woman shall not, unless the woman so desires, be deemed an open court for that purpose ; and, unless the woman other-

wise desires, the justice may, in his discretion, order that no person have access to or be or remain in that room without his consent or permission. APPENDIX.

38. The forms of certificates, orders, and other instruments given in the second schedule to this Act, or forms to the like effect, with such variations and additions as circumstances require, may be used for the purposes therein indicated and according to the directions therein contained, and instruments in those forms shall (as regards the form thereof) be valid and sufficient. Forms in second schedule to be used.

39. Any certificate, order, notice, or other instrument made or issued for the purposes of this Act may be partly in print and partly in writing. Instruments may be in print, &c.

40. In any proceeding under this Act any notice, order, certificate, copy of regulations, or other instrument purporting to be signed by a justice, superintendent of police, visiting surgeon, assistant visiting surgeon, surgeon or other medical officer of a prison, chief medical officer of a certified hospital, or the inspector or an assistant inspector of certified hospitals, or by any person in Her Majesty's service or in that of the Admiralty, shall on production be received in evidence, and shall be presumed to have been duly signed by the person, and in the character by whom and in which it purports to be signed, until the contrary is shown. Presumption as to signatures of justices, &c.

41. Every notice, order, or other instrument by this Act required to be served on a woman shall be served by delivery thereof to some person for her at her usual place of abode, or by delivery thereof to her personally. Mode of service.

42. Any action or prosecution against any person for anything done in pursuance or execution or intended execution of this Act shall be laid and tried in the county where the thing was done, and shall be commenced within three months after the thing done, and not otherwise. Limitation of actions, &c.

Notice in writing of every such action and of the cause thereof shall be given to the intended defendant one month at least before the commencement of the action.

In any such action the defendant may plead generally that the act complained of was done in pursuance or execution or intended execution of this Act, and give this Act and the

APPENDIX. special matter in evidence at any trial to be had thereupon.

The plaintiff shall not recover if tender of sufficient amends is made before action brought, or if a sufficient sum of money is paid into court after action brought, by or on behalf of the defendant.

If a verdict passes for the defendant, or the plaintiff becomes nonsuit, or discontinues the action after issue joined, or if, on demurrer or otherwise, judgment is given against the plaintiff, the defendant shall recover his full costs as between attorney and client, and shall have the like remedy for the same as any defendant has by law for costs in other cases.

Though a verdict is given for the plaintiff, he shall not have costs against the defendant unless the judge before whom the trial is had certifies his approbation of the action.

SCHEDULES.

APPENDIX.

THE FIRST SCHEDULE.

Names of Places.	Limits of Places.
Portsmouth... ..	The Limits of the Municipal Borough of Portsmouth, and of the residue of the Island of Portsea, and of the Parish of Alverstoke, and of the Township of Landport.
Plymouth & Devonport	The Limits of the following places ; namely,— The Municipal Borough of Plymouth. The Parliamentary Borough of Devonport. The Parish of Laira. The Tithing of Pennycross or Western Peveril. The Tithing of Compton Gifford. Torpoint in the County of Cornwall, within the Distance of Half a Mile from the Ferry Gate.
Woolwich	The Limits of the Parishes of Woolwich, Plumstead, and Charlton.
Chatham	The Limits of the following Parishes ; namely,— Chatham, Gillingham, St. Nicholas, Rochester, St. Margaret, Rochester, The Precincts, Rochester, Brompton, New Brompton, Strood, and Frindsbury, And of the Hamlet of Grange, otherwise Grench.
Sheerness	The Limits of the Parish of Minster, and of the Township of Queenborough.

APPENDIX.

Names of Places.	Limits of Places.		
Aldershot	<p>The Limits of the following Parishes ; namely,—</p> <table border="0"> <tr> <td data-bbox="515 324 712 651"> Purbright, Ash, Compton, Pepper Harrow, Frimley, Puttenham, Seal, and Tongham, Elstead, Farnham, Bisley, Aldershot, Yately, Crandall, Dogmersfield, Winchfield, Hartley Wintney, Cove, Eversley, Farnborough, Binstead, Bentley, Sandhurst, in the County of Berks. </td><td data-bbox="723 450 919 811"> } in the County of Surrey. } in the County of Hants. </td></tr> </table>	Purbright, Ash, Compton, Pepper Harrow, Frimley, Puttenham, Seal, and Tongham, Elstead, Farnham, Bisley, Aldershot, Yately, Crandall, Dogmersfield, Winchfield, Hartley Wintney, Cove, Eversley, Farnborough, Binstead, Bentley, Sandhurst, in the County of Berks.	} in the County of Surrey. } in the County of Hants.
Purbright, Ash, Compton, Pepper Harrow, Frimley, Puttenham, Seal, and Tongham, Elstead, Farnham, Bisley, Aldershot, Yately, Crandall, Dogmersfield, Winchfield, Hartley Wintney, Cove, Eversley, Farnborough, Binstead, Bentley, Sandhurst, in the County of Berks.	} in the County of Surrey. } in the County of Hants.		
Windsor	<p>The Limits of the following Parishes ; namely,—</p> <table border="0"> <tr> <td data-bbox="515 996 712 1071"> New Windsor, Old Windsor, Clewer, </td><td data-bbox="723 1004 919 1063"> } in the County of Berks. </td></tr> </table>	New Windsor, Old Windsor, Clewer,	} in the County of Berks.
New Windsor, Old Windsor, Clewer,	} in the County of Berks.		
Colchester	<p>The Limits of the following Parishes or Ecclesiastical Districts ; namely,—</p> <p> All Saints. St. Botolph. St. Giles. St. James. St. John. St. Leonard. St. Martin. St. Mary at the Walls. St. Mary Magdalene. St. Nicholas. St. Peter. St. Runwald. The Holy Trinity. </p>		

APPENDIX.

Names of Places.	Limits of Places.
Shorncliffe ...	The Limits of the following Parishes ; namely,— Cheriton. Hythe. Folkstone.
The Curragh ...	The Limits of the following Parishes ; namely,— Kilcullen. Kildare. Ballysax. Great Conwell. Morristown-beller.
Cork	The Limits of the Borough of Cork for Municipal Purposes.
Queenstown ...	The Limits of the Town of Queenstown for the Purposes of Town Improvement.

APPENDIX.

THE SECOND SCHEDULE.

FORMS.

(A.)

Gazette Notice of Appointments.

London 18 .

THE Lords Commissioners of the Admiralty have [*or the Secretary of State for War has*] appointed *R. S.* to be Visiting Surgeon [*or Assistant Visiting Surgeon*] for *Portsmouth*, *or the Lords Commissioners of the Admiralty and the Secretary of State for War have appointed P. T.* to be Inspector (*or Assistant Inspector*) of Certified Hospitals] under The Contagious Diseases Act, 1866.

(B.)

Certificate for Hospital provided by Admiralty, &c.

THE CONTAGIOUS DISEASES ACT, 1866.

IN pursuance of the above-mentioned Act, it is hereby certified by the Commissioners for executing the office of Lord High Admiral of the United Kingdom [*or by Her Majesty's Principal Secretary of State intrusted with the seals of the War Department*], that the following building [*or part of building*] namely, [*here describe generally the building or part of a building,*] has been provided by the said Lords Commissioners [*or Secretary of State*] as a hospital for the purposes of the said Act.

Dated this day of 18 .

By order of the Lords Commissioners of the Admiralty.

(Signed) *C. P.*,

Secretary of the Admiralty.

[Or

By order of the Secretary of State for War.

(Signed) *E. L.*,

Under-Secretary of State.]

(C.)

APPENDIX.

Certificate for Hospital not provided by Admiralty, &c.

THE CONTAGIOUS DISEASES ACT, 1866.

IN pursuance of the above-mentioned Act, it is hereby certified by the Commissioners for executing the office of Lord High Admiral of the United Kingdom [*or by Her Majesty's Principal Secretary of State intrusted with the seals of the War Department*], that the following building [*or part of a building*], namely, [the lock wards of the Portsmouth, Portsea, and Gosport hospital, *or as the case may be*], is useful and efficient as a hospital for the purposes of the said Act.

Dated this day of 18 .

By order of the Lords Commissioners of the Admiralty.

(Signed) C. P.,

Secretary of the Admiralty.

[*Or*

By order of the Secretary of State for War,

(Signed) E. L.,

Under-Secretary of State.]

(D.)

Declaration of Withdrawal of Certificate.

THE CONTAGIOUS DISEASES ACT, 1866.

IN pursuance of the above-mentioned Act, it is hereby declared by the Commissioners for executing the office of Lord High Admiral of the United Kingdom [*or by Her Majesty's Principal Secretary of State intrusted with the seals of the War Department*], that the certificate under the said Act dated the day of , constituting the hospital [*or as the case may be*] a certified hospital under the said Act, has been and the same is hereby withdrawn as from the day of 18 .

Dated this day of 18 .

By order of the Lords Commissioners of the Admiralty.

(Signed) C. P.,

Secretary of the Admiralty.

[*Or*

By order of the Secretary of State for War.

(Signed) E. L.,

Under-Secretary of State.]

APPENDIX.

(E.)

Information.

} THE Information of C.D. of _____, Superintendent
 to wit. } of Police for _____ [or as the case may be],
 under The Contagious Diseases Act, 1866, taken this
 day of _____ 186____, before the undersigned, one of Her Majesty's
 justices of the peace in and for the said [county] of _____
 who says he has good cause to believe that A. B. is a common prostitute,
 and is resident within the limits of a place to which the said Act
 applies, that is to say, at _____ in the [county] of _____ [or
 is a common prostitute, and being resident within five miles of a place
 to which the said Act applies, that is to say, at _____ in
 the county of _____, was within fourteen days before the laying
 of this information, that is to say, on the _____ day of _____, within
 those limits, that is to say, at _____ in the county of _____,
 for the purpose of prostitution].

Taken and sworn before me the day and year first above mentioned.

(Signed) L. M.

(F.)

Notice for Attendance of Woman.

To A. B. of _____

TAKE notice, that an information, a copy whereof is subjoined hereto,
 has been laid before me, and that, in accordance with the provisions of
 the Act therein mentioned, the truth of the statements therein con-
 tained will be inquired into before me, or some other justice, at
 _____, on the _____ day of _____, at _____ o'clock in
 the _____ noon.

You are therefore to appear before me or such other justice at that place and time, and to answer to what is stated in the said information.

You may appear yourself, or by any person on your behalf.

If you do not appear, you may be ordered, without further notice, to be subject to a periodical medical examination by the visiting surgeon under the said Act.

If you prefer it, you may, by a submission in writing signed by you in the presence of the superintendent of police [or as the case may be], and attested by him, subject yourself to such a periodical examination.

If you do so before the time above appointed for your appearance, it will not be necessary for you to appear then before a justice.

Dated this _____ day of _____

(Signed) L. M.

Justice of the Peace for _____

[Subjoin Copy of Information.]

(G.)

APPENDIX.

Order subjecting Woman to Examination.

Be it remembered, that on the _____ day of _____
to wit } in pursuance of The Contagious Diseases Act, 1866, I, one
of Her Majesty's justices of the peace in and for the said [county] of _____
do order that A. B., _____ of _____, be
subject to a periodical medical examination by the visiting surgeon for
[Portsmouth, or as the case may be] for _____ calendar months
from this day, for the purpose of ascertaining at the time of each such
examination whether she is affected with a contagious disease within
the meaning of the said Act, and that she do attend for the first ex-
amination at _____ on the _____ day of _____, at
o'clock in the _____ noon.

(Signed) *L. M.*

(H.)

Voluntary Submission to Examination.

THE CONTAGIOUS DISEASES ACT, 1866.

I A. B. of , in pursuance of the above-mentioned Act, by this submission, voluntarily subject myself to a periodical medical examination by the visiting surgeon for [*Portsmouth, or as the case may be*] for calendar months from the date hereof.

[illegible]

Witness,

X. Y.,

Superintendent of Police for [or as the case may be.]

(J.)

Notice by Visiting Surgeon to Woman of Times, &c., of Examination.

To *A. B.* of

Take notice, that in pursuance of The Contagious Diseases Act, 1866,
you are required to attend for medical examination as follows :

[Here state times and places of examination.]

[illegible]

APPENDIX.

(K.)

Certificate of Visiting Surgeon.

IN pursuance of The Contagious Diseases Act, 1866, I hereby certify that I have this day examined *A. B.* of , and that she is affected with a contagious disease within the meaning of that Act; and the certified hospital in which she is to be placed under the said Act is the hospital.

Dated this day of 18 .
 (Signed) *E. F.*,
 Visiting Surgeon for [*Portsmouth.*]

(L.)

Order by Inspector of Certified Hospitals for Transfer.

By virtue of the power in this behalf vested in me by The Contagious Diseases Act, 1866, I hereby order that *A. B.* of , now detained under that Act in the certified hospital of for medical treatment, be transferred thence to the certified hospital of

Dated this day of 18 .
 (Signed) *M. N.*,
 Inspector of Certified Hospitals.

(M.)

Certificate for Detention beyond Three Months.

THE CONTAGIOUS DISEASES ACT, 1866.

WE, the undersigned, hereby certify that the further detention for medical treatment of *A. B.* of , now an inmate of this hospital, is requisite.

Dated this day of 18 , at the hospital.
 (Signed) *M. N.*,
 Inspector of Certified Hospitals,
 [or as the case may be],
G. H.,
 Chief Medical Officer.

(N.)

APPENDIX.

Discharge from Hospital.

IN pursuance of The Contagious Diseases Act, 1866, I hereby discharge *A. B.* of from this hospital [*add according to the fact*, and certify that she is now free from a contagious disease].

Dated this day of 18 , at the hospital.

(Signed) *G. H.*
Chief Medical Officer.

(O.)

Certificate on Discharge from Imprisonment.

THE CONTAGIOUS DISEASES ACT, 1866.

WHEREAS under the above-mentioned Act *A. B.* of was on the day of convicted of the offence of and has since been imprisoned for that offence in the gaol of and is now discharged from imprisonment therein : Now in pursuance of the said Act I hereby certify that she is now free from a contagious disease.

Dated this day of

R. O.,
Surgeon of the Gaol of
[or *E. F.,*
Visiting Surgeon for *Portsmouth*].

(P.)

Notice to Woman leaving Hospital.

THE CONTAGIOUS DISEASES ACT, 1866.

To *A. B.*

As you are now leaving this hospital, I hereby, in pursuance of the above-mentioned Act, give you notice that you are still affected with a contagious disease.

Dated this day of

(Signed) *G. H.,*
Chief Medical Officer.

Note.—The above-mentioned Act provides as follows :—

If on any woman leaving a certified hospital a notice [*set out section of Act*].

APPENDIX.

(Q.)

Certificate on last foregoing Notice or Copy.

IN pursuance of the within-mentioned Act, I hereby certify that the within-named woman is now free from a contagious disease.

Dated this day of

(Signed) *E. F.*,
Visiting Surgeon for [*Portsmouth*].

(R.)

Application to be relieved from Examination.

To *L. M.*, Esq., and others, Her Majesty's justices of the peace for the [*county*] of .

I *A. B.* of , being in pursuance of The Contagious Diseases Act, 1866, subject to a periodical medical examination on my own submission [*or* under the order of *L. M.*, Esq., *as the case may be*], dated the day of , do hereby apply to be relieved therefrom.

Dated this day of 18 .
(Signed) *A. B.*

Witness, *G. W.*

CONTAGIOUS DISEASES.

32 & 33 VICT., CH. 96.

CHAP. 96.

An Act to amend the Contagious Diseases Act, 1866,
11th August, 1869.

APPENDIX.

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

1. This Act may be cited as the Contagious Diseases Act, Short title.
 1869.

2. This Act shall be construed as one with the Contagious Diseases Act, 1866 (in this Act referred to as the principal Act), and with the Act of the session of the thirty-first and thirty-second years of the reign of Her present Majesty, chapter eighty, and those Acts and this Act may be cited together as the Contagious Diseases Acts, 1866 to 1869. Construction of Act.

3. Any woman who, on attending for examination or being examined by the visiting surgeon, is found by him to be in such a condition that he cannot properly examine her, shall, if such surgeon has reasonable grounds for believing that she is affected with a contagious disease, be liable to be detained in a certified hospital, subject and according to the provisions of the Contagious Diseases Acts, 1866 to 1869, until the visiting surgeon can properly examine her, so that she be not so detained for a period exceeding five days. The visiting surgeon shall sign a certificate to the effect that she was in such a condition that he could not properly examine her, and that he has reasonable grounds to believe that she is affected with a contagious disease, and shall name therein the certified hospital in which she is to be placed ; Temporary detention of women.

APPENDIX.

and such certificate shall be signed and otherwise dealt with in the same manner, and have the same effect, except as regards duration, as a certificate under the principal Act.

If the reason that the visiting surgeon cannot examine the woman is that she is drunk, she may be detained upon an order of the visiting surgeon for a period not exceeding twenty-four hours in any place named in the order where persons accused of being drunk and disorderly or of offences punishable summarily are usually detained, and the gaoler or the keeper of such place shall upon the receipt of such order receive and detain the woman accordingly.

Notice by
justice to
woman being
a common
prostitute.

4. Where an information on oath is laid before a justice by a superintendent of police, charging to the effect that the informant has good cause to believe that a woman therein named is a common prostitute, and either is resident within the limits of any place to which this Act applies, or, being resident within ten miles of those limits, or having no settled place of abode, has, within fourteen days before the laying of the information, either been within those limits for the purpose of prostitution, or been outside of those limits for the purposes of prostitution in the company of men resident within those limits, the justice may, if he thinks fit, issue a notice thereof addressed to such woman, which notice the superintendent of police shall cause to be served on her:

Provided that nothing in the Contagious Diseases Acts, 1866 to 1869, shall extend, in the case of Woolwich, to any woman who is not resident within the limits specified in the first schedule to this Act.

Section fifteen of the principal Act is hereby repealed, and the foregoing enactment in this section is substituted for it; provided that all proceedings taken and acts done under the section hereby repealed shall, notwithstanding, remain of full effect, and shall, if necessary, be continued as if they had been taken and done under this section.

Duration of
order.

5. Any order for subjecting a woman to periodical medical examination shall be in operation and enforceable as long as and whenever such woman is resident within ten miles of the limits of the place where the order was made, instead of

within five miles, as prescribed by section thirty-two of the principal Act. APPENDIX.

6. Where any woman, in pursuance of the principal Act, voluntarily subjects herself by submission in writing to a periodical medical examination under that Act, such submission shall, for all the purposes of the Contagious Diseases Acts, 1866 to 1869, have the same effect as an order of a justice subjecting the woman to examination; and all the provisions of the principal Act respecting the attendance of the woman for examination, and her absenting herself to avoid examination, and her refusing or wilfully neglecting to submit herself for examination, and the force of the order subjecting her to examination after imprisonment for such absence, refusal, or neglect, shall apply and be construed accordingly. Effect of voluntary submission by women.

7. A woman may be detained for a further period not exceeding three months, in addition to the six months allowed under section twenty-four of the principal Act, if such certificate as is required by that section (to the effect that her further detention for medical treatment is requisite), is given at the expiration of such six months; so, nevertheless, that any woman be not detained under one certificate for a longer time in the whole than nine months. Duration of detention.

8. Where an order is made discharging a woman from any hospital, or where a certificate is given, under section thirty of the principal Act, that a woman is free from a contagious disease, such order and certificate shall be delivered to the superintendent of police, and retained by him. Custody of orders of discharge.

9. Any woman subjected, either on her own submission or under the order of a justice, to a periodical medical examination under the principal Act, who desires to be relieved therefrom, and is not under detention in a certified hospital, may make application in writing in that behalf to the visiting surgeon. Application to surgeon for relief from examination.

The visiting surgeon shall cause a copy of such application to be delivered to the superintendent of police, and if, after a report from such superintendent, he is satisfied by such report or other evidence that the applicant has ceased to be a common prostitute, may, by order under his hand, direct

APPENDIX.

that she be relieved, and she shall thereupon be relieved, from periodical medical examination.

Such order shall be in triplicate; one copy shall be delivered to the woman, and two copies shall be delivered to the superintendent of police, who shall communicate one copy to the justice (if any) who made the order subjecting the woman to a periodical medical examination, or to his successor in office.

The provisions of this section shall be in addition to and not in substitution for the provisions of the principal Act for relieving a woman from examination.

Places to
which Act
extends.

10. The places to which the Contagious Diseases Acts, 1866 to 1869, apply, shall be the places mentioned in the first schedule to this Act, the limits of which places shall, for the purposes of the said Acts, be such as are defined in that schedule.

Forms in
second
schedule to
be used.

11. The forms of certificates, orders, and other instruments given in the second schedule to this Act or forms to the like effect, with such variations and additions as circumstances require, may be used for the purposes therein indicated, and according to the directions therein contained, and instruments in those forms shall (as regards the form thereof) be valid and sufficient.

Repeal of
parts of 29 &
30 Vict. c. 35.

As to settle-
ment of child
born in
certified hos-
pital.

12. Sections four and thirty-eight of the principal Act, and the two schedules to that Act, are hereby repealed.

13. The settlement of a child born of the body of a mother while detained in a certified hospital shall be the same as if such hospital were a house licensed for the public reception of pregnant women under the Act of the thirteenth year of King George the Third, chapter eighty-two.

FIRST SCHEDULE.

Names of Places.	Limits of Places.	APPENDIX.
Aldershot ...	<p>The Limits of the following Parishes ; namely,—</p> <div style="display: flex; align-items: center;"> <div style="flex: 1;"> <p>Pirbright, Ash, Compton, Peper Harow, Frimley, Puttenham, Seal, Tongham, Elstead, Farnham, Bisley, Aldershot, Yately, Crandall, Dogmersfield, Winchfield, Hartley Wintney, Cove, Eversley, Farnborough, Binsted, Bentley, Sandhurst, in the County of Berks.</p> </div> <div style="flex: 0.5; font-size: 4em; margin: 0 10px;"> <p>{</p> <p>{</p> </div> <div style="flex: 1;"> <p>in the County of Surrey.</p> <p>in the County of Hants.</p> </div> </div>	
Canterbury ...	<p>The Limits of the following Parishes or Ecclesiastical Districts ; namely,—</p> <p>St. Andrew. All Saints. St. Alphage. St. Mary Bredin. St. Mary Bredman. St. George-the-Martyr. St. Mary Magdalen.</p>	

APPENDIX.

Names of Places.	Limits of Places.
Canterbury ...	St. Margaret. St. Mildred. St. Mary, Northgate. St. Martin. St. Paul. St. Peter. The Archbishop's Palace. St. Dunstan. Christ Church. St. Gregory. Staplegate. Westgate Within. Westgate Without. St. Augustine. Old Castle.
Chatham ...	The Limits of the following Parishes and Places ; namely,— Chatham. Gillingham. St. Nicholas, Rochester. St. Margaret, Rochester. The Precincts, Rochester. Brompton. New Brompton. Strood. Frindsbury, and The Hamlet of Grange, otherwise Grench.
Colchester ...	The Limits of the following Parishes or Ecclesiastical Districts ; namely,— All Saints. St. Botolph. St. Giles. St. James. St. John. St. Leonard. St. Martin. St. Mary at the Walls. St. Mary Magdalene. St. Nicholas. St. Peter. St. Runwald.

APPENDIX.

Names of Places.	Limits of Places.
Colchester	The Holy Trinity. St. Andrew's, Greenstead. Lexden. St. Michaels, Mile End.
Dover	The Limits of the Parishes of— Buckland. Charlton. Hougham. St. Mary's. St. James's. Eastcliff (extra parochial). Guston.
Gravesend	The Limits of the Parishes of— Gravesend. Milton. Northfleet. Denton. Chalk.
Maidstone	The Limits of the Parishes of— Maidstone. Barming. East Farleigh. Loose. Boughton Monchelsea. Allington, and The Hamlet of Tovil.
Plymouth & Devon- port	The Limits of the following Places ; namely,— The Municipal Borough of Plymouth. The Parliamentary Borough of Devonport. The District of Laira. The Tithing of Pennycross or Western Peveril. The Tithing of Compton Gifford. Torpoint in the County of Cornwall, within the distance of half a mile from the Ferry Gate. Ivy Bridge.

APPENDIX.

Names of Places.	Limits of Places.
Plymouth & Devon- port	The Parishes of Plympton St. Maurice and Plympton St. Mary. Dartmouth.
Portsmouth	The Limits of the following Places and Parishes ; namely,— The Municipal Borough of Portsmouth. The Residue of the Island of Portsea. The Parish of Alverstoke. The Township of Landport.
Sheerness	The Limits of the Parish of Minster, of the Township of Queenborough, and of the Isle of Grain.
Shorncliffe	The Limits of the following Parishes ; namely,— Cheriton. Hythe. Folkstone. Walmer. Deal. Sholden. Mongeham. Ringwold. Ripple.
Southampton	The Limits of the Municipal Borough of South ampton.
Winchester	The Limits of the Parliamentary Borough of Winchester.
Windsor	The Limits of the following Parishes ; namely,— New Windsor, } Old Windsor, } Clewer, } Eton, } Datchet, } Upton, } } in the County of } Berks. } } } } in the County of } Bucks.
Woolwich	The Limits of the following Parishes and Places ; namely,— Woolwich.

APPENDIX.

Names of Places.	Limits of Places.
Woolwich	Plumstead. Charlton. St. Paul. } St. Nicholas. } Deptford. Hamlet of Hatcham. St. Alphage, Greenwich.

IRELAND.

Names of Places.	Limits of Places.
The Curragh	The Limits of the following Parishes ; namely,— Kilcullen. Kildare. Ballysax. Great Conwell. Morristown-beller.
Cork	The Limits of the Borough of Cork for Municipal Purposes.
Queenstown	The Limits of the Town of Queenstown for the purposes of Town Improvement.

APPENDIX.

SECOND SCHEDULE.

FORMS.

(A.)

Gazette Notice of Appointments.

London 18 .

THE Lords Commissioners of the Admiralty have [*or* the Secretary of State for War has] appointed *R. S.* to be Visiting Surgeon [*or* Assistant Visiting Surgeon] for [*Portsmouth, or* the Lords Commissioners of the Admiralty and the Secretary of State for War have appointed *P. S.* to be Inspector [*or* Assistant Inspector] of Certified Hospitals] under the Contagious Diseases Acts, 1866 to 1869.

(B.)

Certificate for Hospital provided by Admiralty, &c.

THE CONTAGIOUS DISEASES ACTS, 1866 to 1869.

IN pursuance of the above-mentioned Acts, it is hereby certified by the Commissioners for executing the office of Lord High Admiral of the United Kingdom [*or* by Her Majesty's Principal Secretary of State intrusted with the seals of the War Department], that the following building [*or* part of a building], namely, [*here describe generally the building or part of building*], has been provided by the said Lords Commissioners [*or* Secretary of State] as a hospital for the purposes of the said Acts.

Dated this day of 18

By order of the Lords Commissioners of the Admiralty.

Signed (C. P.)

Secretary of the Admiralty.

[Or

By order of the Secretary of State for War.

Signed (E. L.)

Under-Secretary of State.]

(C.)

APPENDIX.

Certificate for Hospital not provided by Admiralty, &c.

THE CONTAGIOUS DISEASES ACTS, 1866 TO 1869.

IN pursuance of the above-mentioned Acts, it is hereby certified by the Commissioners for executing the office of Lord High Admiral of the United Kingdom [or by Her Majesty's Principal Secretary of State intrusted with the seals of the War Department], that the following building [or part of a building], namely, [the lock wards of the Portsmouth, Portsea, and Gosport hospital, or as the case may be,] is useful and efficient as a hospital for the purposes of the said Acts.

Dated this day of 18 .

By order of the Lords Commissioners of the Admiralty.

(Signed) C. P.,

Secretary of the Admiralty.

[Or

By order of the Secretary of State for War.

(Signed) E. L.,

Under-Secretary of State.]

(D.)

Declaration of Withdrawal of Certificate.

THE CONTAGIOUS DISEASES ACTS, 1866 TO 1869.

IN pursuance of the above-mentioned Acts, it is hereby declared by the Commissioners for executing the office of Lord High Admiral of the United Kingdom [or by Her Majesty's Principal Secretary of State intrusted with the seals of the War Department], that the certificate under the said Acts dated the day of , constituting the hospital [or as the case may be] a certified hospital under the said Acts, has been and the same is hereby withdrawn as from the day of 18 .

Dated this day of 18 .

By order of the Lords Commissioners of the Admiralty.

(Signed) C. P.,

Secretary of the Admiralty.

[Or

By order of the Secretary of State for War.

(Signed) E. L.,

Under-Secretary of State.]

APPENDIX.

(E.)

Information.

} THE information of C. D. of _____, Superintendent
 to wit. } of Police for _____ [or as the case may be]
 under The Contagious Diseases Acts, 1866 to 1869, taken this
 day of _____ 186____, before the undersigned, one of Her
 Majesty's justices of the peace in and for the said [county] of _____
 who says he has good cause to believe that A. B. is a
 common prostitute, and is resident within the limits of a place to which
 the said Acts apply, that is to say, at _____ in the [county]
 of _____ [or is a common prostitute, and being resident
 within fifteen miles of a place to which the said Act applies, that is to
 say, at _____ in the county of] _____, was
 within fourteen days before the laying of this information, that is to
 say, on the _____ day of _____, within those limits
 [or outside of those limits], that is to say, at _____ in
 the county of _____ for the purpose of prostitution [in the
 company of men resident within those limits].

Taken and sworn before me the day and year first above mentioned.

(Signed) L. M.

(F.)

Notice for Attendance of Woman.

To A. B. of _____

TAKE notice, that an information, a copy whereof is subjoined
 hereto, has been laid before me, and that, in accordance with the pro-
 visions of the Acts therein mentioned, the truth of the statements
 therein contained will be inquired into before me, or some other justice,
 at _____, on the _____ day of _____, at
 o'clock in the _____ noon.

You are therefore to appear before me or such other justice at that place and time, and to answer to what is stated in the said information.

You may appear yourself, or by any person on your behalf.

If you do not appear, you may be ordered, without further notice, to be subject to a periodical medical examination by the visiting surgeon under the said Acts.

If you prefer it, you may, by a submission in writing signed by you in the presence of the superintendent of police [or as the case may be], and attested by him, subject yourself to such a periodical examination.

If you do so before the time above appointed for your appearance, it will not be necessary for you to appear then before a justice. APPENDIX.

Dated this day of

(Signed) L. M.

Justice of the peace for

[*Subjoin copy of Information.*]

(G.)

Order subjecting Woman to Examination.

 } BE it remembered, that on the day of
to wit. } in pursuance of The Contagious Diseases Acts, 1866 to
1869, I, one of Her Majesty's justices of the peace in and for the said
[*county*] of do order that A. B. of

 be subject to a periodical medical examination by
the visiting surgeon for [*Portsmouth, or as the case may be*] for

 calendar months from this day, for the purpose of ascertaining
at the time of each such examination whether she is affected with a
contagious disease within the meaning of the said Acts, and that she
do attend for the first examination at on the
day of at o'clock in the noon.

(Signed) L. M.

(H.)

Voluntary Submission to Examination.

THE CONTAGIOUS DISEASES ACTS, 1866 TO 1869.

I A. B. of , in pursuance of the above-
mentioned Acts, by this submission, voluntarily subject myself to a
periodical medical examination by the visiting surgeon for [*Portsmouth,*
or as the case may be] for calendar months from the date
hereof.

Dated this day of 18 .

(Signed) A. B.

Witness,

X. Y.,

Superintendent of Police for [*or as the case may be.*]

(J.)

Notice by Visiting Surgeon to Woman of Times, &c., of Examination.

To A. B. of

TAKE notice, that in pursuance of The Contagious Diseases Acts,

APPENDIX.

[illegible]

Order by Inspector of Certified Hospitals for Transfer.

hospital of

[illegible]

Certificate for Detention beyond Three Months.

THE CONTAGIOUS DISEASES ACTS, 1866 TO 1869.

this hospital, is requisite.

hospital.

(Signed) *M. N.*,
Inspector of Certified Hospitals,
[or as the case may be.]
G. H.,
Chief Medical Officer.

Discharge from Hospital.

IN pursuance of The Contagious Diseases Acts, 1866 to 1869, I hereby discharge *A. B.* of from this hospital

hereby discharge *A. B.*

of

from this hospital

APPENDIX. *[add according to the fact, and certify that she is now free from a contagious disease].*

Dated this day of 18 , at the
hospital.

(Signed) G. H.,
Chief Medical Officer.

(Q.)

Certificate on Discharge from Imprisonment.

THE CONTAGIOUS DISEASES ACTS, 1866 TO 1869.

WHEREAS under the above-mentioned Acts, A. B. of
 was on the day of convicted of
the offence of , and has since been imprisoned for that offence
in the gaol of and is now discharged from imprisonment
therein : Now in pursuance of the said Acts, I hereby certify that she
is now free from a contagious disease.

Dated this day of .
 R. O.,
 Surgeon of the gaol of
 [or L. F.,
 Visiting Surgeon for Portsmouth].

(R.)

Notice to Women leaving Hospital.

THE CONTAGIOUS DISEASES ACTS, 1866 TO 1869.

To A. B.

As you are now leaving this hospital, I hereby, in pursuance of the
above-mentioned Acts, give you notice that you are still affected with a
contagious disease.

Dated this day of (Signed) G. H.,
 Chief Medical Officer.

Note.— The above-mentioned Acts provide as follows :—

If on any woman leaving a certified hospital a notice [*set out section
of Act*].

APPENDIX.

(S.)

Certificate on last foregoing Notice or Copy.

In pursuance of the within-mentioned Acts, I hereby certify that the within-named woman is now free from a contagious disease.

Dated this day of

(Signed) E. F.
Visiting Surgeon for [Portsmouth].

(T.)

Application to be relieved from Examination.

To L. M., Esq., and others, Her Majesty's justices of the peace for the [county] of [or to N. O., Esq., Visiting Surgeon for Portsmouth, or as the case may be].

I A. B. of , being in pursuance of The Contagious Diseases Acts, 1866 to 1869, subject to a periodical medical examination on my own submission [or under the order of L. M., Esq., as the case may be], dated the day of , do hereby apply to be relieved therefrom.

Dated this day of 18 .
(Signed) A. B.

Witness, G. W.

APPENDIX.

HONG KONG.

The first ordinance by which the system of licensed prostitution was introduced into the British colony of Hong Kong was issued in November, 1857, by Sir John Bowring. A later ordinance, especially relating to the examination of seamen, was issued in 1867, from which copious extracts are contained in the evidence of Mr. Berkeley Hill before the Royal Commission in 1871 (Evidence, p. 521). This ordinance is described as a more stringent one than that previously in force, and Mr. Hill (A. 14,771) cites from it the clauses:—
“The Registrar-General may grant to any person whom he
“shall think fit a licence to keep a brothel in such district
“or other locality as the Governor in Council may from time
“to time appoint;” and “Every keeper of a licensed brothel
“shall pay to the Registrar-General the sum of four dollars a
“month during the continuance of such licence, or such other
“sum as may from time to time be fixed by the Governor in
“Council.” The original ordinance of 1857 is, however, so instructive and so necessary to explain the late ordinance, that it is worth while giving it verbatim. It is all the more interesting because it exhibits what might, probably, become the junction point between the Continental regulation system and the English Contagious Diseases Acts.

“HONG KONG,

“ANNO VICESIMO VICTORIÆ REGINÆ,

“No. 12, of 1857.

“By His Excellency, Sir John Bowring, Knight, LL.D.,
“Governor and Commander-in-Chief of the Colony of
“Hong Kong and its dependencies, and Vice-Admiral

“of the same, Her Majesty’s Plenipotentiary and Chief
 “Superintendent of the trade of British subjects in
 “China, with the advice of the Legislative Council of
 “Hong Kong.

APPENDIX.

ORDINANCE.

“An Ordinance for Checking the Spread of Venereal
 “Diseases.

“24th November, 1857.

“Whereas, it is expedient to make provision for checking
 “the spread of venereal diseases within this colony: Be it,
 “therefore, enacted and ordained by His Excellency the
 “Governor of Hong Kong, by and with the advice of the
 “Legislative Council thereof, as follows:—

“1. In the interpretation of this ordinance, the follow-
 “ing words or phrases shall have the respective meanings
 “hereby assigned to them, that is to say:—

“‘Prostitute’ shall mean any woman who shall live or
 “reside in a registered or a declared brothel. ‘Declared
 “‘brothel’ shall mean any house in which women live or
 “reside, or which they frequent, for the purposes of prosti-
 “tution, and which shall, in any judicial proceedings under
 “this ordinance be sworn or deposed to be such by any two
 “witnesses, or which shall be declared to be such by the
 “Registrar-General. ‘Registered brothel’ shall mean any
 “house in which women live or are kept for the purposes of
 “prostitution, and which shall be certified to be such in
 “writing by the Registrar-General, and which shall be
 “entered and numbered on a list or register of such houses,
 “to be kept by the Registrar-General.

“2. From and after the passing of this ordinance no
 “person shall keep a brothel within the colony of Hong
 “Kong, unless the same be registered, nor unless the same be
 “within one or other of the following districts or portions of
 “districts—namely, Ha-wau, from Spring Gardens, east-
 “ward; Sei-ing-Poon, from the junction of Hollywood Road
 “and Queen’s Road West, westward, and Tai-ping-shan,
 “except such parts of such districts or portions of districts
 “as face the Queen’s Road; and if any persons shall be con-
 “victed of keeping a brothel outside of such districts as

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“aforesaid, or an unregistered brothel within the same, such person shall, for the first offence, be sentenced to pay a fine not exceeding one hundred current dollars, or to imprisonment, with or without hard labour, for a term not exceeding three months, and for the second offence to pay a fine not exceeding two hundred current dollars, or to imprisonment, with or without hard labour, for a term not exceeding six months, and for the third offence to pay a fine not exceeding five hundred current dollars, or to imprisonment for a term not exceeding twelve months; provided always, that it may be lawful for the magistrate before whom such offender shall be brought, to punish such offender both by fine and imprisonment, or by one or other of such modes, according to his discretion; and nothing herein contained shall be taken to bar any person from indicting any brothel whatsoever as a nuisance.

“3. Upon the occasion of any person being for the third time convicted of such offence as is aforesaid, it shall be lawful for the magistrate before whom such conviction shall take place, by warrant under his hand, to remove all the inmates of the house wherein such offender shall have dwelt or resided, and to close up such house, and forbid the same to be re-inhabited, unless he shall be satisfied that the same will be occupied in a proper and legal manner, and not as a brothel within the meaning of this ordinance, *if situated outside of the aforesaid districts, or, either as a registered brothel, or in any other* PROPER AND LEGAL MANNER, *if within the said districts, or any of them;* and that every person re-inhabiting such house, without a licence or permission under the hand of the chief or assistant magistrate, shall be liable to a penalty of not more than five hundred current dollars, or to imprisonment for a term not exceeding twelve months.

“4. The averment of two witnesses made on oath or by affirmation within the meaning of ordinance No. 7 of 1857, that any house is occupied as a brothel, may be received as sufficient evidence of such fact; and any person who shall appear, act, or behave himself or herself as master or mistress, or as the person having the care or management of

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ORDINANCE.

“any brothel, shall be deemed and taken to be the keeper thereof, and shall be liable to be punished as such, notwithstanding he or she shall not, in fact, be the real owner or keeper thereof.

“5. The Registrar-General shall keep a register of all brothels, and shall enter in such register the names of the keeper of each of such brothels, and also of the immediate landlord or lessor thereof, also of the Crown lessee or tenant of the plot of ground on which the same may be standing or built, and shall keep it corrected from time to time, according as such keeper, immediate landlord or lessor, or Crown lessee or tenant, respectively, may change, and according as any such house shall cease at any time to be occupied as a brothel; and shall furnish the colonial secretary with a copy of such register, and shall inform him from time to time of such corrections as may from time to time be made in such register as aforesaid.

“6. Whenever any house shall be, in the opinion of the Registrar-General, a house in which women reside, or which they frequent for the purposes of prostitution, the Registrar-General shall forthwith declare such house to be a brothel, and shall give notice to the immediate landlord or lessor thereof, or if such immediate landlord or lessor cannot be found or ascertained, then to the Crown lessee of the plot of ground on which the same shall be built, that such house has been declared by him to be a brothel, and as such, comes within the provisions of the second and third sections of this ordinance: and in case such immediate landlord or Crown lessee or tenant shall dispute such declaration of the Registrar-General, then the party so disputing such declaration shall have an appeal to the chief or assistant magistrate, or to any two justices of the peace, sitting for any such magistrates, who are hereby empowered to adjudicate on such appeals, and whose decisions thereon shall be final.

“7. Brothels registered under the provisions of section 5 of this ordinance shall be liable to be visited by the Registrar-General, and by the superintendent, deputy-superintendent, and inspectors of police, and by the colo-

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nial surgeon or other medical officer to be from time to time appointed under the provisions of this ordinance ; and the Registrar-General and such several officers as aforesaid are hereby empowered to visit and inspect the condition of such brothels ; and the colonial surgeon or such other medical officer as aforesaid is hereby empowered and required to visit each one of such registered brothels, and inspect and examine each one of the inmates therein at least once in every ten days.

“ 8. Every keeper, mistress, or manager of a registered brothel shall once in every week furnish the Registrar-General with a true report of the condition of health of each and every of the inmates of the same.

“ 9. In every registered brothel there shall be kept suspended, in some public place, a board containing, in the English and Chinese languages, a list of the names and ages of the inmates then resident in the house, and such list shall be altered from time to time according as any inmate may be absent therefrom, either by reason of leaving such house altogether, or of being removed therefrom either to gaol or hospital under the provisions of this ordinance.

“ 10. Any brothel keeper or prostitute who shall offer any obstacle to, or refuse to admit such Registrar-General, superintendent, or inspector of police, for the purpose of making such inspection as aforesaid, or shall refuse to submit to such inspection or examination by the colonial surgeon or such other medical officer as aforesaid, or shall furnish a wilfully false report of the condition of health of the inmates, as is herein required, or shall not keep suspended such list of such inmates, and keep the same altered or corrected from time to time, as is herein required, as the case may be, shall for each offence be liable to a penalty of not more than one hundred current dollars, or may be imprisoned, with or without hard labour, for any time not exceeding three months.

“ 11. Every prostitute, or inmate of a registered brothel, who shall be at any time declared by the colonial surgeon, or such other medical officer as aforesaid, to be affected

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“with any venereal disease, shall be by order of the Registrar-General, given under his hand, removed to such hospital as shall be built or set apart for women affected with venereal diseases, under the provisions of this ordinance, and such prostitute shall be kept under the control of the medical officer of such hospital, and shall not leave, or attempt to leave the same, until properly discharged as cured by such medical officer; and on every occasion of discharging any such prostitute from the said hospital as cured, the medical officer so discharging such prostitute shall give her a certificate under his hand of having been so discharged, which certificate, should such prostitute return to a brothel, is to be produced and shown to the Registrar-General, or to the superintendent or inspector of police, whensoever the production of the same shall be by him or them demanded; and any prostitute who shall during her continuance in such hospital refuse to submit to or obey the directions of the medical officer thereof, or shall leave, or attempt to leave, the same until she be properly discharged as cured, as aforesaid, shall be liable to be imprisoned, with or without hard labour, for any time not exceeding three months; and the expenses which may be incurred in and about the maintenance and treatment of any such prostitute in such hospital shall be a debt due to the Crown, and shall be paid by the keeper of the brothel of which such prostitute shall have been an inmate, or from which she shall have been so removed, and the same in case of non-payment shall be sued for and recovered by the Registrar-General.

“12. If any prostitute labouring under a venereal disease, shall, to the satisfaction of the chief or assistant magistrates, be proved to have infected any person with such disease, such prostitute, on conviction thereof, shall be punished by imprisonment, either in gaol or hospital, for a term not exceeding three months, and the keeper of the brothel in which such prostitute shall be found shall in every such case be fined a penalty not exceeding two hundred current dollars.

“13. Every keeper of a registered brothel shall pay to

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" the Registrar-General or his collector the sum of four
" current dollars per mensem, which the Registrar-General is
" hereby empowered to demand and collect, and all such sums
" are to be paid by the Registrar-General into the colonial
" treasury.

" 14. All moneys collected under or by virtue of sections
" 13 and 19 are to be appropriated to the formation of a
" general fund for the purposes of this ordinance, out of which
" a monthly sum (to be fixed by his Excellency in Council) is
" to be paid to the colonial surgeon, or to such other medical
" officer as may be from time to time appointed for the pur-
" poses of this ordinance, under the provisions of section 7,
" as his remuneration for performing the duties required or
" imposed by this ordinance; and the said colonial surgeon,
" or such other medical officer as aforesaid, is hereby em-
" powered (with the sanction of his excellency the governor)
" to nominate or appoint a deputy or assistant, being a person
" properly qualified to act for him, in case he shall be at any
" time incapacitated or unable to perform such duties, or any
" portion of them.

" 15. Every keeper of a registered brothel shall be allowed,
" upon giving notice thereof to the superintendent of police,
" and obtaining his authority to employ a constable for the
" protection of and the preservation of order in such brothel,
" such constables to be under the control of and responsible
" to, and to be paid by, the superintendent of police, and to
" wear a uniform to be chosen for the purpose, but to be
" solely employed about the protection of the brothel by the
" keeper of which each of them is employed; and every
" keeper of a brothel so employing such special constable as
" aforesaid, shall pay quarterly in advance to the superin-
" tendent of police a sum sufficient to cover the expenses
" which may be incurred in payment of the wages of and
" providing the uniform for such constable, and such sum
" shall, in case of non-payment, be sued for and recovered by
" the superintendent of police.

" 16. A hospital shall be built, or premises in the first
" instance hired, exclusively for the reception and treatment
" of women affected with venereal diseases, the cost of renting

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“such premises to be defrayed out of the fund to be raised
“under sections 13 and 19, and the remainder of the moneys
“which shall from time to time be collected under the said
“sections over and above such sums as shall be applied in
“payment of the colonial surgeon, or such other medical
“officer as aforesaid, and in payment of the expenses of
“renting and maintaining such premises as aforesaid, shall go
“and be applied to the formation of a fund for the purpose of
“building, fitting up, and maintaining such hospital, and en-
“larging the same from time to time as may be required, and
“all fees directed to be levied and paid by section 13, in case
“of non-payment, shall be sued for and recovered by the
“Registrar-General, who shall pay the same into the colonial
“treasury.

“17. Every keeper of a licensed boarding house for sea-
“men shall furnish to the harbour master, once in every week,
“a list of seamen then resident in his house, and shall report
“in such list as to the state of health of each seaman, so far
“as he may be able to ascertain the same; and every seaman
“who may be reported or may be otherwise discovered to be
“affected with a venereal disease, unless then under medical
“treatment, shall be removed by warrant, under the hand of
“the harbour master, to a hospital, where he shall be kept
“until he be, by the medical attendants thereof, discharged
“as cured, and shall have obtained from such medical at-
“tendants a certificate of his having been so discharged,
“which certificate he shall produce and show to the harbour
“master when required so to do; and the expenses which may
“be incurred in and about the maintenance and treatment of
“any such seaman in such hospital, shall be a debt due to
“the Crown, and shall be paid by such seaman; or in case of
“the keeper of the boarding house in which such seaman
“shall have resided before his removal to hospital not having
“reported, or having made a false report as to the state of
“health of such seaman, then such expenses shall be paid by
“such boarding house keeper, in case it shall appear to, and
“be certified by, the colonial surgeon or his deputy, or the
“medical attendants of the hospital to which such seaman
“may be removed, that the disease with which he may be

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“affected is of such a nature as that the keeper of the boarding house could, with ordinary and reasonable observation, have ascertained its existence; and in all cases such expenses shall in case of non-payment be sued for and recovered by the harbour master on behalf of the hospital.

“18. If any seaman affected with a venereal disease, and reported so to be by the keeper of the boarding house in which such seaman may be residing, shall refuse or offer any hindrance or obstruction to his removal to hospital; or, having been removed to hospital, shall attempt to leave the same before he shall be properly discharged cured; or having been discharged cured, shall refuse to produce his certificate of discharge when required by the harbour master or his deputy authorised to demand the same; or being affected with a venereal disease, shall neglect or refuse to inform the keeper of the boarding house in which he may be residing, then, and in every such case, such seaman so offending shall be liable to a fine not exceeding twenty-five current dollars, or to imprisonment, with or without hard labour, for any time not exceeding one month.

“19. The master of any merchant ship, before shipping any seaman, may require that such seaman shall be inspected by the colonial surgeon or other medical officer, who may be appointed for such purpose in connection with the harbour master's department, and who is hereby required to attend at stated hours in the forenoon and afternoon of each day at the harbour master's office for the purposes of such inspection; and the colonial surgeon, or such other medical officer, upon such inspection, is to give a certificate under his hand as to the state of health of such seaman, which certificate such seaman is to produce and show to the master of the ship in which he may be about to serve; and for every such certificate there shall be paid the fee of fifty cents, to be paid by the master or agent of the ship, in case such seamen should prove to be in sound health, and by the seaman himself, or the boarding-house keeper with whom he shall be residing, in case he shall prove to be affected with any venereal disease; such fee to be

“received by the harbour master, and in case of non-payment to be sued for and recovered by him, and paid into the colonial treasury for the purposes of this ordinance.

“20. In all cases where punishment by imprisonment shall be inflicted under this ordinance, such imprisonment may be either in gaol or in hospital, and may be with or without hard labour as the court shall adjudge.

“21. In all cases in which fines shall be imposed under the provisions of any section of this ordinance, and the brothel keeper on whom such fine shall be imposed shall be unable to pay or discharge the same, then the same shall be recovered from the immediate landlord or lessor of such house; and in case such landlord or lessor be not known or cannot be ascertained, then from the Crown lessee of the plot of ground on which such house may be erected or built, provided it be proved to the satisfaction of the magistrate that such Crown lessee was cognisant of the purposes for which such house shall have been let or occupied.

“22. No house in which any trade or business shall be carried on shall be registered, or be capable of becoming a registered brothel under the provisions of this ordinance.

“23. No moneys which shall be raised under the provisions of this ordinance by way of any fee shall at any time be applied or applicable to any purposes other than or different from the specific purposes for which the same are to be raised, and to which they are to be applied under the provisions of this ordinance.

“24. His Excellency in Council is hereby empowered from time to time to make such regulations and bye-laws as may be deemed necessary for carrying into effect the provisions of this ordinance, and for the regulation and control of registered brothels within the aforesaid districts.

“25. All cases arising under this ordinance shall be tried and adjudicated by, and all fines and penalties herein mentioned, and all sums herein declared to be recoverable, shall be sued for and recovered before any magistrate of police, *either singly*, or any two or more justices of the peace in the manner provided by Ordinance No. 10 of 1844, entitled,

APPENDIX. “ *An Ordinance to regulate Summary Proceedings before*
— “ *Justices of the Peace, and to protect Justices in the execu-*
“ *tion of their duty.*’

“ JOHN BOWRING.

“ Passed by the Legislative Council of Hong Kong,
“ this 24th day of November, 1857.

“ J. M. D’ALMADA E. CASTRO,
“ *for the Clerk of Councils.*”

BOMBAY.



The following report was addressed, in 1871, by the Superintendent (Contagious Diseases Act), Bombay, to the Municipal Commissioner :—

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1. The Municipal Commissioners, on behalf of the Bench of Justices, promised to contribute the monthly sum of 3,450 rupees, and the Government agreed to contribute a like sum. There was thus available 6,900 rupees a month, or, after deducting the salary of the superintendent (1,200 rupees), 5,700 rupees, with which to carry out the working of the Act.

2. The scheme prepared 23rd March, 1870, for the administration of the Act, met with the entire approval of Government, who directed that it should come into operation on May 1st, but owing to unavoidable delay in converting a house which had been used as an hotel into an hospital, and in procuring the requisite furniture, water supply, and gas, some days elapsed. The registration of prostitutes commenced on the 18th of May.

3. For the purpose of registration and examination, the island was divided into six districts, and each district placed under the immediate superintendence of a medical inspector, who was a graduate of the Bombay University. The extent of these districts was decided according to the supposed number of prostitutes inhabiting them in order to give to each medical inspector, as nearly as possible, the same amount of work. Each district includes many wards, the limits of which are identical with those of the Health Department of the Municipality.

10. The Contagious Diseases Act, then, has been introduced into the three Presidencies, and the working of the

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Act entrusted to three various agencies, and I consider it is a point of some importance to determine which of the three methods has been found to answer best. For this purpose I have compared, in the succeeding paragraphs of my report, the numbers registered, diseased, and cost of carrying out the Act in Bombay and Calcutta. I regret that, as I have no report from Madras, I am unable to compare the results there with those of Calcutta and Bombay.

18. The lower classes of the native population showing cordial co-operation with Government officers in the working of this or any other Act would be, I think, a new and pleasing spectacle, not however, likely to be seen. In fact, were it not for the absence of some clause in the Act that would provide for the punishment of the scum of the bazaar who aid and abet the women in evading the Act, the whole tribe of supposititious husbands, protectors, and false witnesses would find their occupation gone, and themselves the object of punishment as often as their wretched dupes the prostitutes.

12. With the special detective agency under my control I commenced registration on May 12, without much trouble, for the women, not knowing that the burden of proving them to be prostitutes rested with my department, knowing well their own profession, came forward readily and registered themselves, so that at the end of May, 886 natives and 64 Europeans and Armenians were registered. But shortly after the introduction of the Act something like a general panic took place; the reports current in the bazaar were of the most ridiculous kind, amongst others that the women would be subjected to every outrage and indignity. I mention this because it was one of the many devices used by the pimps and dregs of native society to frighten the women, and induce them to pay them to come before me and personate their husbands, or adopt other means by which the prostitutes might evade registration. This was in some cases successful so long as the bribes were forthcoming; and, as I stated before, I had no power to punish the men, whilst the women, having thus evaded the law, were only registered after some vexatious inquiry and delay.

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20. Very many, it is thought some thousands, fled to Bassein, Tauna, and the neighbouring towns, and then, of course, began the opposition on the part of the brothel-keepers and landlords of small chawls, who lost their tenants and rents. During June, 488 natives and 15 Europeans were registered; total number for the two months, 1453. Those already registered finding they met with kindness and a strict regard to privacy, attended fairly regularly. Then some ceased to come—then others; and finding that the nature of their punishment was so slight, absented themselves more than ever.

21. The unregistered now began to discover that it was most difficult for us to prove them prostitutes, and how easy it was for them to evade the law, and now they are carrying on their trade unmolested, because we know after the experience of a case tried before a magistrate here that it is almost impossible to obtain legal proof of a woman being a prostitute, and consequently, can do nothing. I quote the identical case above referred to. I was informed by a most respectable man whom I had known a long time that a certain woman living in a certain house was an unregistered prostitute. Three police sepoy were placed to watch the house in which she lived for a fortnight. They saw nightly men of all castes visit her at different times, remaining various periods with her, and during which time the door was locked. The European inspector of the division swore he had seen her sitting in the balcony on several occasions with a lamp by her side, and had always regarded her as a prostitute. I could not bring forward a witness who had had intercourse with her, and the case was dismissed.

22. Respectable witnesses will not come forward in the magistrate's court, although their evidence, if given, would have ensured conviction against the notorious ones I have proceeded against. They object to the public scandal, which would not exist if these cases were tried before the Commissioner of Police. When a man will appear and swear he has had intercourse with a woman, his evidence is, perhaps with some reason, regarded as tainted and not very reliable. In fact, he is regarded as one who is evidently lost to all sense

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of decency and shame, who will make a public statement of this kind, and his evidence has a corresponding weight with the magistrate.

24. Putting aside the few prosecutions in which actual connexion can be proved to have taken place for money, at the most, presumptive evidence is all that can be obtained. A woman having no apparent mode of living, constantly visited by men of different castes at night, generally taking care to let her presence be known to the passers-by in the street, and, as a rule, living with other prostitutes, is the kind of evidence I am able to bring forward.

25. It may be thought inadvisable to prosecute a woman for being an unregistered prostitute, before any other authority than a police magistrate. But what I maintain is, that to have to go through all the routine of serving summonses, applying for warrants, &c., in order to punish a registered prostitute who infringes some rule under the Act, is a proceeding fraught with great objection, and certain to act most prejudicially to the proper working of the Act. This class of offenders at any rate might be brought before the Commissioner of Police.

26. In many cases when a woman absents herself from examination it would be easy to at once compel her to attend if the Police Commissioner had the power of instant arrest, and I think that he is the proper person to whom that power should be delegated, as is the case in Calcutta, and where the arrangement appears to work admirably. I append here two tables showing the work effected by Mr. Stuart Hogg.

28. I, of course, should deprecate the police sepoy's being allowed to use their own discretion in determining who were prostitutes, as I know that very little reliance can be placed upon them, and there would be great danger of their inflicting insults and oppression on poor women, and of their attempting to force them on the register, either because they could not obtain a bribe, or from their hope that the head of their department would be pleased at the zeal they had shown.

29. The reason why registration has been so well carried out in Calcutta, and a proper observance of the rules after registration enforced, is shown in paragraphs 26, 27 of my . .

report. Now, observe the numerous stages to be gone through in bringing to justice a registered prostitute who has infringed some rule of the Act. A summons is applied for, and granted by a magistrate. A police sepoy accompanied by some subordinate of mine to point out the woman, goes to serve the summons, and the door of the house is locked. They have to go backwards and forwards, perhaps for two or three days, waiting about until an opportunity occurs—then she is served. She may answer to the summons before the magistrate; generally, however, she removes in the interval and conceals herself, or escapes to some neighbouring town—remains there a month perhaps, or longer, and then returns, taking up her residence in some different part of Bombay. If not detected in her new abode (which is exceedingly difficult to do) then all goes well with her. If she is discovered, then the same process of applying for a second summons, or a warrant, has to be gone through, and the woman has to be identified after two, or perhaps four, months have elapsed.

30. If the Commissioner of Police had the power of arresting a woman directly she committed a breach of the rules under the Act, then all this unchecked defiance of the law would be stopped, and a salutary example be set to others who think they can disobey with impunity.

31. If the intervention of the Magistrate's Court was instituted to avoid oppression and interference with the civil rights of individuals, it will be found that the proceedings in these courts have been instrumental, for the reasons alleged before, in producing these very conditions which, it was hoped, should be avoided. The framers of the Act no doubt contemplated that all prostitutes should have the same restrictions and penalties imposed upon them; whereas now many escape altogether, and consequently, it presses unfairly on those that are registered. This has been made the source of very frequent complaints to me. The women very fairly say, why should we be subjected to these rules, when there are many others as we are, who are left unmolested?

36. On the first introduction of the Act there was great consternation among a class of women who are called Naikeens, or hereditary prostitutes: they feared that as they

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belonged to the prostitute caste they would all have to come under the rules of the Act. It was pointed out to me, however, that many were women of undoubted virtue and respectability, who merely gained their living by singing and dancing at the parties of the native gentry, and that it would be harsh to cause them to register because they belonged to this caste. I determined, therefore, at a meeting of this caste that those who could show that they gained their living in the manner above stated, would be exempted, whilst those who combined prostitution with dancing and singing would be compelled to register.

44. Segregation of prostitutes.—The Police Commissioner has recently caused prostitutes who formerly inhabited some of the leading thoroughfares and scandalized the public by the shameless parade of their profession, to remove into streets where their presence cannot annoy their neighbours.

Part of 47. The entire expenses of working the Act in Hong Kong have been defrayed by the prostitutes and brothel-keepers, leaving a balance of 50,000 dollars in hand.

I have the honour to be, Sir,

Your most obedient servant,

W. F. KNAPP, Assistant-Surgeon,
Superintendent Contagious Diseases Act.

Bombay, 15th June, 1871.

MALTA AND OTHER BRITISH DEPENDENCIES.

—o—

A general account of the system as operating in Malta may be gathered from the papers handed in by Sir Henry Storks, Governor of Malta, to the Select Committee of the House of Lords, which reported in July, 1868, on the operation of the Contagious Diseases Act of 1866. These papers consist of a letter addressed by him, in October, 1865, to Mr. Skey; of a letter, also to Mr. Skey, from Mr. Inglott, Comptroller of Charitable Institutions at Malta, and a translation of the "Ordinance enacted by the Governor of Malta, with the advice and consent of the Council of Government thereof, for the prevention of the spreading of venereal diseases."

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SANITARY EX-
AMINATIONS.

In the course of his letter to Mr. Skey, Sir Henry Storks says, that "when he held the office of Her Majesty's Lord High Commissioner of the Ionian Islands he gave a good deal of attention to the subject, and he found that the disease prevailed in all the larger islands, and that the troops suffered a good deal from it. It was determined to apply with care and vigour the powers given by the law as regarded registration and inspection of prostitutes, and all the women of the town were registered by the police and periodically inspected by the police physician. This careful and periodical inspection was attended with the happiest results, and the disease may be said to have almost disappeared in the islands of Corfu, Zante, and Cephalonia."

SIR HENRY
STORKS'
LETTER TO
MR. SKEY.

Later on in the same letter, Sir Henry Storks says, "a man found to be diseased should be required to give the name and address of the woman by whom he was infected, and she should be at once inspected by the police physician, and if found diseased be sent to the hospital. It has been found sometimes both at Malta and in the Ionian Islands that the woman indicated by a soldier has proved,

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SIR H. STORKS'
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MR. SKEY.

"on inspection, to be free from the disease. This arises from the wish on the part of the soldier to screen the woman who really diseased him, or from his not knowing or remembering the woman with whom he had connection. Men should be encouraged by expostulation to give the name of the woman who diseased them. I consider it very important that the married soldiers should be very closely inspected, because I am satisfied that in many instances the disease is propagated by the wives of soldiers; and it is natural to suppose that if a married soldier is found to be diseased, his wife is in the same condition. It is to be regretted that the women of regiments cannot be inspected as well as the men, as much suffering would be averted from the poor creatures themselves and from their offspring. In conclusion, I am of opinion that very little benefit will result from the best devised means of prevention until prostitution is recognised as a necessity, and until hospitals are provided for the women of the town to resort to."

MR. INGLOTT'S
LETTER.

Mr. Inglott, in his letter, says, "Females leading a life of prostitution were, from the time of the Knights, I believe, subjected to certain police regulations and to periodical personal inspections; but in the beginning of 1859 it was found that the personal inspection was not ordained by law, but it was a traditional abuse of power which may be put at defiance by the slightest resistance. The fact was artfully communicated to the peculiar class of persons concerned, and a general resistance was soon made to the practice." Mr. Inglott goes on to say that the operation of the new law has been such that "public prostitution can be hardly said to exist in Malta, and the absence of this 'apparently necessary evil' (quoting the words of the letter to which this is an answer) "is beginning to inspire apprehensions as regards the safety of 'private virtue and 'morality.'"

"This abnormal state of things has lately become known in other parts of the Mediterranean, and an emigration of foreign prostitutes has been an immediate consequence.

“ Considering the successful working of
 “ the ‘simple management’ our law prescribes, I may
 “ conclude by observing that, if the important question upon
 “ which your committee” (that presided over by Mr. Skey
 in reference to venereal diseases) “is called upon to report
 “be so agitated by the public as to persuade Parliament to
 “deviate slightly from their strict adherence to ‘constitu-
 “ ‘tional principles,’ and to adopt a ‘special law’ similar
 “in its general provision to ours, the terrible evils of pros-
 “titution in London will be greatly mitigated, and the
 “progress and extension of syphilitic disease considerably
 “arrested.”

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MR. INGLOTT'S
LETTER.

The following are the terms of the Ordinance, which is
 dated the 14th June, 1861 :—

ORDINANCE OF
THE 14TH OF
JUNE, 1861.

“Whereas it is expedient to prevent the spreading of
 “venereal diseases, it is hereby enacted and ordained by his
 “Excellency the Governor, with the advice and consent of
 “the Council of Government, as follows :—

“Art. 1. Any person, being notoriously a prostitute, shall
 “be liable to be visited, three times in each month, by one
 “of the police physicians, for the purpose of its being ascer-
 “tained whether such person is affected with venereal
 “disease.

“The visit shall be made in a place to be for that purpose
 “appointed by the superintendent of police.

“2. The person referred to in the preceding article shall
 “be summoned to appear for the purpose of being visited as
 “aforesaid, by means of an order in writing, signed by the
 “superintendent of police, and stating the time and place in
 “which the visit shall be made.

“If such person shall refuse to appear at the time and
 “place aforesaid, or, if on her appearance she shall refuse to
 “be visited, such person shall be punished with imprison-
 “ment for a term not exceeding three months.

“3. The punishment provided in the preceding article
 “shall be remitted as soon as the person sentenced shall con-
 “sent to be visited.

“4. If the aforesaid physician shall declare the person

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“visited to be affected with venereal disease, such person
“shall be kept in custody, and shall, on the same day, be
“brought before the Court of Judicial Police, which court,
“on the aforesaid declaration being confirmed by the phy-
“sician, upon oath, shall order such person to be taken to a
“public hospital, or to any other place which may for that
“purpose be appointed by the head of the Government, to
“to be therein kept under medical treatment until she is
“cured.

“5. It shall be lawful for the court, at the request of the
“said person, before giving the order referred to in the pre-
“ceding article, to appoint two or more other physicians,
“for the purpose of ascertaining the existence of the
“disease.

“If such other physicians shall confirm the opinion given
“by the police physician who shall have made the visit con-
“templated in the preceding article, the aforesaid person shall
“be sentenced to pay a sum equal to the amount of the fee
“to which such other physicians are by law entitled.

“6. The proceedings indicated in article 4 shall not take
“place in cases where the aforesaid person shall, upon the
“declaration of the police physician that she is affected with
“venereal disease, consent to go to, and remain in, the hos-
“pital or other place mentioned in the said article, for the
“purpose therein contemplated.

“Passed the Council of Government at sitting, No. 24,
“20th May, 1861.

“(Signed) G. B. TRAPANI,
“*Clerk to the Council.*

“Assented to this 13th day of June, 1861.

“(Signed) J. GASPARD LE MARCHANT,
“*Governor.*

“By command,

“(Signed) VICTOR HOULTON,
“*Chief Secretary of Government.*”

In respect of the regulations existing in other British
Dependencies, some of the witnesses examined by the Select

Committee of the House of Lords, in 1868, gave important evidence. Sir Henry Storks (Q. 250) says, "Since I left Jamaica the Council has passed a Contagious Diseases Act. I was very much impressed with the importance of passing that Act there. It is applicable to certain districts which are named; and the Act gives power to extend those districts. I found that there was a great deal of venereal disease all over the country, and if I had remained there I should have passed the Act myself, and the Governor has since passed it."

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JAMAICA.
SIR HENRY
STORKS' EVIDENCE.

Mr. W. W. Veasy, who is described as having under his charge the correspondence of the War Office with regard to the Act of 1865 and the general business relating to it, as conducted by the War Office, says, in answer to the question (121): "I believe you are acquainted with the nature of some of the Colonial Acts of this description which have been recently passed?"—"Yes; the Government urged on the Colonies to apply Acts of the same kind as the Contagious Diseases Act, 1866, and legislation has commenced in Jamaica, Ceylon, and Barbadoes, and at two of those places there is a clause in the Colonial Act which provides that the provisions of the Act may be made applicable to any part of the colony that the Governor may declare in a gazette."

JAMAICA,
CEYLON,
BARBADOES,
MR. VEASY'S
EVIDENCE.

In answer to the question (123), "Do you know whether similar Acts are in contemplation in other colonies?"—Mr. Veasy says, "Yes, an ordinance has been passed at Hong-Kong, but I do not think it has yet received the confirmation of the Government, and several other colonies have been invited to legislate in the same direction. The Cape, Canada, the Mauritius, and Gibraltar have been invited to do so."

An Act was passed at the Cape and subsequently, after vehement debates, repealed. An account of these proceedings will be found on the next page.

CAPE OF GOOD HOPE.



APPENDIX. — The following account of the introduction and abolition of
CAPE COLONY. the licensing system in Cape Colony is supplied by a member
of the Colonial Legislature, who concerned himself actively
with the subject :—

LAW OF 1868. Owing to representations made by medical men and others
as to the prevalence of syphilis in the Cape Colony, and particularly in the neighbourhood of naval and military stations, the Colonial Legislature was induced to pass, in 1868, a law based upon the provisions of the English Contagious Diseases Acts. As the greater part of the naval and military forces were in and about the neighbourhood of Simon's Town and Cape Town, it was in these places the Act was most strictly enforced. In 1869 the Legislative Council appointed a Select Committee to enquire into the working of the new law, and it was found from the evidence taken that the medical men did not agree as to what was syphilis ; that persons diseased from natural causes were placed upon the register as diseased from venereal causes ; that women reported to be cured by one doctor were sent back to hospital for treatment by another ; that the tickets issued to the women on leaving hospital were looked upon as certificates to practise immorality ; and that the number of patients increased the longer the Act was in force. The committee recommended that a fee of five shillings to the medical inspector for each woman examined should be abolished, leaving him a fixed salary ; that only cases of syphilis should be sent to hospitals ; and that the certificates should be abolished. Except for the purpose of reducing the expenses connected with the Act, such as the abolition of the fee to the medical inspector, no material alteration was made in the administration of the Act. Complaints continued to be made, and the conduct of the police was brought

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 CAPE COLONY.
 HISTORY OF
 THE LAW OF
 1868, AND OF
 ITS REPEAL.

prominently into notice. An influential committee was formed to obtain the repeal of the Act, the chairman being W. Porter, Esq., C.M.G., formerly Attorney-General of the Colony. In 1871 the Legislative Council appointed another select committee to enquire into the working of the Act. The police were stated to have acted in the most arbitrary manner in some cases, hunting women who could not be called common prostitutes from neighbourhood to neighbourhood, and keeping them in a constant state of terror. It was shown that the women were forced to attend inspection periodically at the hospital, because they were seen speaking to men, and that, only through fear of exposure in the magistrates' courts if they disobeyed even a verbal summons from a policeman, they submitted to the inspection. So impressed was the committee with the evidence taken, that, though favourable to the Act, it recommended that all initiatory action for the examination of ascertained prostitutes should be withdrawn from the police; that the term "common prostitute" should be strictly defined to prevent interference with women who, though they had lapsed from virtue, should not come within that designation; that all applications for the interference of the magistrates or police should be made on oath; that the supervision of common women should be removed from the police; that certificates of inspection should be abolished; that inspection, if the woman was not willing, should only be enforced after oath made by the medical inspector; and that the bonds taken from women for abstention from prostitution should be abolished as useless. The evidence taken by this committee caused serious agitation in the Colony, and gave weight to the arguments used for the repeal of the Act. Mr. Solomon, one of the members of the House of Assembly for Cape Town, introduced a Bill to repeal the Act, and after a hard struggle in opposition to the influence of the then Government of the Colony, the Repealing Bill became law in 1872.

NEW SOUTH WALES.



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NEW SOUTH
WALES.
BILL OF 1876.

On the 4th of February, 1876, a Bill was introduced by Mr. Farrell into the Colonial Legislature of New South Wales, closely resembling the English Contagious Diseases Acts of 1866 and of 1869 as construed together. Under this Bill it was to "be lawful for the Governor by and with the advice of the Executive Council from time to time by proclamation published in the *Government Gazette*, to specify the towns, townships, or other places which should come under the provisions of the Act." The Bill differs from the English Acts in one important particular, that is, that the "voluntary submission" of a woman to a periodical examination was not, as it does under the English Acts (32 & 33 Vict. c. 96, 56), of itself to operate directly, and for all purposes, as a justice's order. Under the New South Wales Bill, the voluntary submission in the presence of the police can only become a compulsory obligation when "the justice of the peace to whom the said submission may be made may at his discretion order a periodical examination" for any period not exceeding a year. This is a manifest improvement in the direction of public liberty, though whether the sanitary efficacy of the law is increased by the change will be doubted in many quarters. Some "new clauses" are printed with the Bill in the Government copy, and as they represent a phase of legislation which is much favoured by some persons, and of which more may yet be heard, they are transcribed on the next page. It will be instructive to some persons to peruse in clearly written legislative dress recommendations which are often inconsiderately made in order to provide substitutes for, or supplements to, the licensing system. They are, in many respects, its logical consequence.

PREVENTION OF CONTAGIOUS DISEASES BILL.

(New Clauses.)

If on the examination of any female she shall be found affected with any contagious disease the surgeon conducting such examination shall immediately thereupon require her to mention the name of the person from whom she truly believes she received the infection. And if unable to mention any such name with certainty the surgeon shall then require her to mention the names of all persons with whom she may have had sexual intercourse during the month preceding. And if any such female shall refuse to furnish the names of any such person or persons as the case may be she shall be deemed guilty of an offence under this Act, and on summary conviction thereof before any two justices shall be liable to imprisonment for any term not exceeding *three* months.

APPENDIX.

NEW SOUTH
WALES.
SUGGESTED
NEW CLAUSES
TO BILL OF
1876.
Women
required to
name the
persons sus-
pected to
have imparted
contagion.

Upon the name of any male being mentioned by any female as last aforesaid as the person from whom she either believes she received or she may have received the infection by reason of sexual intercourse, the examining surgeon is hereby authorised and required forthwith to issue a notice in the form of schedule addressed to every such male person, requiring him to attend at a time and place therein mentioned, for the purpose of being examined by the said surgeon or any other duly authorised visiting surgeon. And if upon such examination it shall appear that such male person is infected with any contagious disease, the said surgeon shall thereupon forward a certificate to the Inspector-General of Police, or other principal officer of the constabulary force of the city or town, that the person named therein is infected with a contagious disease, and shall also give such person a written notice prescribing the times and places at which such person shall again be required to attend for examination. And if in the opinion of such visiting surgeon the contagious disease shall at any of the said examinations of such person be considered to be of a virulent character the said visiting surgeon is hereby authorised and required to

Such persons
thereupon to
be examined.

APPENDIX.

NEW SOUTH
WALES.SUGGESTED
NEW CLAUSES
TO BILL OF
1876.

Such persons
refusing to
be examined,
&c., liable
to imprison-
ment.

direct the person so infected either to remain confined within the doors of his then residence, or to proceed to some appointed hospital, in either case there to remain until such infected person shall have received a certificate in writing from the visiting surgeon attending him, that such person is no longer infected with such contagious disease.

If any person so charged by any female as the person by whom she may have been infected, shall refuse or neglect to be examined after the aforesaid notice requiring him to attend any visiting surgeon shall have been served upon him personally or left at his last place of abode, or after any such examination any male person so certified to be infected and required by the visiting surgeon to submit himself to any other examination, or to remain confined at home, or in a hospital (as the case may be), shall refuse or neglect to attend at the time and place appointed for the purpose of further examination ; or shall, if ordered to confine himself at his residence or in a hospital as before provided, depart from his residence or hospital (as the case may be) before such person shall have received a certificate from a visiting surgeon of his being no longer infected ; in every such case the person so offending, whether infected or not, shall be deemed guilty of an offence under this Act, and on summary conviction thereof before any two justices, shall be liable to imprisonment for any term not exceeding *three* months, and to pay a penalty not exceeding *fifty* pounds.

Persons infected visiting
brothels may
be taken into
custody and
imprisoned.

If any person certified by any visiting surgeon as aforesaid to be infected with any contagious disease shall at any time enter any house of ill-fame where any known prostitute may then be resident, before such person shall have submitted himself to the several examinations prescribed, and before he shall have received the certificate of a visiting surgeon that he is no longer infected with a contagious disease, such person so offending shall be liable to be taken into custody forthwith by any constable or other person belonging to the constabulary force, and afterwards brought before any two justices, and upon summary conviction before them, such person so offending shall be liable to be imprisoned for any term not exceeding *three* months, and to pay a fine not exceeding *fifty* pounds.

If any female when under examination by any visiting or other surgeon as before provided shall falsely accuse any person with having had sexual intercourse with her, she shall be deemed guilty of an offence against this Act, and upon summary conviction thereof before any two justices, shall be liable to be imprisoned for any term not exceeding *six* months.

APPENDIX.

Women
making false
accusations
liable to *six*
months' im-
prisonment.

JAPAN.



APPENDIX.
JAPAN.

It will appear from the following letter, which was published in appendix D of the report of the Royal Commission of 1871, that in 1870 the English Government succeeded in introducing the licensing system into Japan with all its most characteristic features as presented in European capitals, that is, the establishment of certified hospitals, the registration and periodical examination of prostitutes, and the licensing of brothels, which are here said to be "indicated to the public by large numerals painted over the doors."

MR. NEWTON'S
LETTER TO SIR
H. KELLETT.

Letter from Mr. George Newton, Surgeon, Royal Navy, to Vice-Admiral Sir Henry Kellett, K.C.B., &c., Commander-in-Chief, China and Japan :—

"YOKOHAMA, *January 3rd*, 1871.

"Sir,—I beg most respectfully to submit the following report of my proceedings for the mitigation of venereal diseases during the quarter ending the 31st of December, 1870, for your favourable consideration.

"Having obtained your permission, I proceeded from Yokohama to Nagasaki in the beginning of November with the object of first establishing a lock hospital, and second to introduce a system for checking the contagion of venereal diseases by means of compulsory medical examinations of all the public prostitutes.

"The first object was attained after considerable trouble, . . . by the governor giving the Temple of Daitokugii for conversion into a lock hospital, and appointing a superintendent, three native doctors, and an interpreter to form the staff of officials. After the necessary alterations had been made, it was open for the admission of patients, and by the 25th of December, 91 prostitutes suffering from venereal diseases

“had been taken in for treatment and confinement until
 “cured. They all expressed themselves thankful for the
 “comforts afforded them, and for the benefits derived from
 “the establishment.

APPENDIX.

JAPAN.

MR. NEWTON'S
LETTER.

“The second object was attended with only partial success.
 “This was owing to objections of the authorities to making
 “the examinations compulsory in deference to the wishes of
 “a few brothel keepers. In Nagasaki the prostitutes are
 “confined to their brothel districts, named respectively
 “Morniyama, Naminohira, and Lornachi. The public women
 “in the two latter districts voluntarily submitted themselves
 “to medical examination weekly. At the first inspection
 “56·8 per cent. were found affected with venereal diseases,
 “which showed the necessity of the preventive measures
 “being made general and compulsory, more especially as
 “many of the women had suffered for months, even years,
 “and presented sad evidences of the power of the disease.
 “The brothels in which the women who are inspected periodi-
 “cally reside are indicated to the public by large numerals
 “painted over the doors.

“I considered it advisable to apply to the foreign consuls
 “resident at Nagasaki for their official supervision of the lock
 “hospital thus inaugurated, with a view to its permanent
 “maintenance, and to its ultimately becoming an efficient
 “institution, conferring benefits alike to natives and foreigners
 “of all nations resorting to that port, and my thanks are
 “due to the consuls for the ready and kind manner they
 “assured me of their best support and countenance.

“As it was necessary that I should return to Yokohama,
 “Dr. Fisher, of the United States Consulate, humanely
 “undertook the management of the hospital after my depar-
 “ture on the 26th of December.

“YOKOHAMA.

“On my return, I found that the duties of the Yokohama
 “Lock Hospital, and the medical examinations of all the
 “prostitutes, had been effectually and strictly carried out
 “during my absence, for which I am indebted to my native
 “assistants, Drs. Hihachi, Matzama, and Mihajima.”

APPENDIX.

JAPAN.

MR. NEWTON'S
LETTER.

[Mr. Newton gives tables representing the number of women examined and the number of patients admitted into the hospital and discharged from it during the quarter. 15,056 women were examined, of which 338 were found diseased and admitted into hospital. Mr. Newton further gives a brief account of the services he had rendered in concert with the British minister, Sir Harry Parkes, in establishing stations for gratuitous and compulsory vaccination, and organising a system of house to house visitation and the opening of small-pox hospitals].

"I have, &c.,

"GEO. NEWTON, Surgeon, R.N.

"To Vice-Admiral Sir Henry Kellett,

"Commander-in-Chief, K.C.B., &c., China and Japan."

SIR H. KEL-
LETT'S NOTE.

The following note from Sir Henry Kellett was "forwarded for the information of the Lords Commissioners of the Admiralty":—

"*'Ocean'* at Hong-Kong, 2nd February, 1871.

"Mr. Newton has now extended his valuable labours to Nagasaki, and intends shortly to establish a lock hospital and a system of compulsory examinations at Hiogo also.

"Their lordships will no doubt note with pleasure the new advantage we are gaining from Mr. Newton's zealous exertions, and the confidence reposed in him by the Japanese—viz., the establishment of stations for gratuitous and compulsory vaccination. This is a very important point gained, for small-pox is always prevalent in Japan, and is generally of a malignant type.

"HENRY KELLETT,

"Vice-Admiral and Commander-in-Chief."

THE UNITED STATES OF AMERICA.



The licensing system has attracted some attention in the APPENDIX.
United States, and for four years was in force in St. Louis. AMERICA.
Attempts have been made amidst violent opposition to introduce the system into other places, and it is said that there is a prospect of their renewal, especially in the State of New York.

In St. Louis the system was introduced in 1870 by an ST. LOUIS.
alteration of the city charter, the words “or regulate” being introduced into the clause which was supposed to be framed for the suppression of prostitution. The clause thereby gave power to suppress *or regulate* houses of ill-fame. After the clause had been in force for four years, from 1870 to 1874 it was repealed by an unanimous vote of the Senate of the State of Missouri, Lieutenant-Governor Charles P. Johnson making a speech exposing “the deception in which the clause “had incubated, the fraud in which it had been born, and “the abortive deformity in which it was flourishing.” A new charter has just been adopted expressly renouncing the licensing system (Feb. 1877).

In New York, a bill for the legislation of prostitution NEW YORK.
passed through the Legislature in 1871, but failed to become law, because, as it would appear, by some irregularity, it never received the signature of the Governor of the State. The committee on crime for the State has recently reported in favour of the regulation system, and on the 2nd June, 1876, the grand jury of the city and county of New York made a presentment in the Court of General Sessions of New PRESENTMENT
OF GRAND
JURY.
York, of which the following is a transcript. It is, perhaps, the ablest defence of the licensing system which has been made in the English language.

*“ Court of General Sessions of the Peace for the City and
“ County of New York.*

“The grand inquest of the county, impanelled in the

APPENDIX.
 NEW YORK.
 PRESENTMENT
 OF GRAND
 JURY,
 JUNE 2ND,
 1876.

"month of May, in closing their labours respectfully
 "present :

"That they desire to call the attention of the court to the
 "growing evil of prostitution in this city. Houses of pros-
 "titution, formerly confined to a great extent to particular
 "localities in the city, have of late years, with the increasing
 "growth of our population, become scattered through all
 "parts of the city.

"The lack of sufficient power to properly deal with this
 "evil, under existing legislation is very apparent. The houses
 "can only be dealt with as disorderly houses, and when they
 "are kept in this manner as not too grossly to offend the
 "sense of public decency, a conviction is exceedingly difficult,
 "even in the case of houses well known to fall within the
 "definition of the law. If broken up by the constant action
 "of the police in one district when they have become in-
 "tolerable from their numbers, the result is that they reap-
 "pear in other localities, perhaps previously respectable. In
 "many portions of the city property has become almost
 "worthless for occupancy for respectable persons, either for
 "business or for residence, because it had been invaded by
 "houses of this class, and when they are driven from one
 "such district, the only result is that they devastate another.
 "Even if all houses of this kind by a close and untiring
 "enforcement of the law be entirely suppressed, the only
 "result would be that prostitutes would harbour in tenement
 "houses and other dwellings inhabited by respectable people,
 "and by their example and conduct do much more to deprave
 "the young than they do at present. Indeed it is quite
 "settled that legislation to suppress prostitution is and must
 "be ineffective; and the fact that a business notoriously
 "illegal can be safely carried on in defiance of the law tends
 "to demoralize public sentiment, and is especially injurious
 "in its effect upon the officers of the police charged with
 "enforcement of the law. The members of this inquest are
 "also deeply impressed with the vast evils inflicted upon
 "society by the introduction, through prostitution, of the
 "worst and most dangerous types of disease into the whole
 "community; whose ravages are not limited to those who

“voluntarily expose themselves to its dangers, but affect,
 “directly or indirectly, all classes of society, and entail untold
 “evils upon posterity. This last consideration has impressed
 “itself upon the members of this inquest in their observation
 “of the inmates of our penal institutions. This inquest is
 “firmly of the opinion that however abhorrent to the views
 “of some any legislation may be which appears to legalize so
 “great an evil, still the fact must not be lost sight of that it
 “is an evil impossible to suppress, yet comparatively easy to
 “regulate and circumscribe, and that suitable legislation for
 “its restriction to particular localities, and its careful and
 “constant supervision by the boards of health and police,
 “would do very much to check the evils growing out of it.
 “The spread of disease would be thereby almost, if not
 “entirely, stopped, the employment of houses of this de-
 “scription as resorts of thieves and receptacles of stolen
 “goods would become well-nigh impossible, and the very
 “patronage itself of such houses would be almost entirely
 “limited to those who are not afraid or ashamed to be seen
 “visiting them. It seems wholly unwise to forego the benefits
 “that may be derived from such a system through a senti-
 “mental dread of appearing to countenance evil.

“This inquest beg to present to the court the following re-
 “solutions :—

“‘Resolved, that the legislature of the State of New York
 “‘be earnestly requested to adopt as early as practicable
 “‘some system of law calculated to confine houses of pro-
 “‘stitution in the large cities of this State within certain
 “‘specified limits, and to subject them at all times to the
 “‘careful and vigilant supervision of the boards of health and
 “‘police.

“‘That this court be respectfully requested to forward a
 “‘copy of this presentment to the Legislature as soon as it
 “‘shall be in session.

“‘EDWARD VAN VOLKENBURGH, Foreman.

“‘FREDERICK H. CHAPLIN, Secretary.’”

APPENDIX.
 NEW YORK.
 PRESENTMENT
 OF GRAND
 JURY,
 JUNE 2ND,
 1876.

In 1871 a Bill was introduced into the legislature of the CALIFORNIA,
 State of California for the purpose of legalizing prostitution 1871.

APPENDIX. in that State. It is said that the nature of the Bill became known to the wife of one of the members, who thereupon drafted another Bill, exactly the same as the first, with the exception of one word—the word *man* was in every case substituted for the word *woman*. Several members of the legislature engaged that they would bring forward the Bill as revised if any further progress was made with the original measure. The latter was heard of no more.

CINCINNATI,
1874. In 1874 an Ordinance was before the Board of Aldermen of the city of Cincinnati “to restrain and suppress houses of “ill-fame in the city of Cincinnati.” So soon as it was known that this was really an attempt to introduce the regulation system an influential committee of citizens presented a petition to the board of aldermen, stating the grounds of their objection to the ordinance, and it was no longer persevered in.

PENNSYLVANIA,
1874. In 1874 the Hon. A. L. Cressler introduced into the House of Representatives of the State of Pennsylvania “an Act to “provide for the decrease of a social evil, and for the better “government of cities in relation to houses of ill-fame.” The following memorial was signed by fifty-two doctors, and the Bill was defeated :—

PROTEST
AGAINST
LICENSING
SYSTEM. “PROTEST AGAINST HOUSE BILL 88, FOR LICENSING PROSTITUTION IN PENNSYLVANIA.

“*To Hon. Senators and Representatives of the Commonwealth of Pennsylvania.*

“We, the undersigned, physicians and surgeons of Philadelphia, members of the college of physicians, county “medical society, &c., &c., earnestly protest against licence, “or any sanction by law, of *prostitution*, as a concession to “evil for which there is no excuse, a system to which France “gave birth in its worst days of misrule, and which M. “Lecour, chief of police, the man responsible for carrying “out this system in Paris, declares to have increased instead

“of diminishing the evil. The view of society from which
 “such laws can proceed, is low and sensual, entirely incon-
 “sistent with the maintenance of social virtue and truth.
 “There is neither physical nor social necessity for men or
 “women to yield themselves to a life of evil; and all law
 “should tend to save them from such a fate. Nor is there
 “any excuse for discrimination in favour of the strong
 “against the weak, by setting apart, under sanction of law,
 “a class of women who are to be held as the instruments of
 “the legalised lust of habitually profligate men. The welfare
 “of society demands that all men should be held amenable
 “to the same standard of morals as is required of women.
 “Therefore, we do protest against any recognition of the false
 “and demoralizing claim that this most destructive of vices
 “and crimes is a necessity. We affirm that the evil is a
 “moral and social one, and must be overcome by moral, not
 “legislative means. The battle, to be victorious, must be
 “fought with the weapons of pure moral principles.”

APPENDIX.

PENN-
SYL-
VANIA.PROTEST
AGAINST
ADOPTION OF
LICENSING
SYSTEM.

The Board of Health for the district of Columbia, in which
 Washington is situated, in its report for the year 1875,
 observes :—

COLUMBIA.
BOARD OF
HEALTH
REPORT FOR
1875.

“In a number of our principal cities ordinances have been
 “enacted looking to the medical inspection of prostitutes and
 “the sequestration of the diseased, with the view of arrest-
 “ing the spread of a malady appalling in its effects, not only
 “upon the victim but not unfrequently upon his unoffending
 “posterity. The legalisation of bawdy houses for so humane
 “a purpose, startling as it may be to a sensitive moral sense,
 “has many powerful advocates among the thoughtful, wise
 “and philanthropic of the community.”

The same body caused to be introduced on March 1st,
 1876, into the House of Representatives a Bill “to further de-
 “fine and regulate the powers and duties of the board of health
 “for the district of Columbia.” The expressions in the Bill
 about “inspections” of “persons,” preventing the spread of
 “contagious” or infectious diseases, securing to the Board
 the “exclusive control and management of all hospitals,”
 when interpreted by the light of the above extract from the

INTRODUCTION
OF A BILL,
1876.

APPENDIX.

COLUMBIA,
1876.

report, can leave no room for doubt that, under the cover of vague clauses in a general public health law, it was designed to introduce a full grown system for the licensing of prostitution. It is the more important to notice this as it is a *ruse* of legislation which is always liable to be resorted to, and is at intervals resorted to in England. The following are some of the clauses of the Bill ; which, according to the last accounts, had not yet become law, and was being determinedly resisted.

BILL OF THE
BOARD OF
HEALTH,
1876.

“ Be it enacted by the Senate and House of Representatives “ of the United States of America in Congress assembled— “ that it shall be the duty of the board of health of the dis- “ trict of Columbia, in addition to the powers heretofore con- “ ferred upon and exercised by said board, to make all needful “ rules and regulations. First : for the enforcement of *qua-* “ *rantine* on the part of vessels, canal boats, railroad cars, or “ other conveyances, public or private, in which *passengers* or “ things of any kind are carried or transported ; their cargoes “ or *persons*, or things from or belonging to such vessels, canal “ boats, railroad cars, or other conveyances, including all rea- “ sonable *inspections*, *detentions*, and *purifications*, to prevent “ the introduction and spread of *contagious* or *infectious* diseases “ in the district of Columbia, and to provide for the summary “ removal of *persons* and property, and, in extreme cases of “ grave danger to the public health, the destruction of in- “ fected property. Second : To secure to said board *the ex-* “ *clusive control and management of all hospitals*, for care “ and treatment of persons afflicted with small-pox, and other “ *contagious* and *infectious* diseases, now or hereafter to be “ established in said district, the inforcement of vaccination “ and reasonable supply of vaccine matter. * * * * “ Seventh : For the prevention, abatement, and removal of “ any other matter or thing, within said district, dangerous “ to human life or the public health.”

Unsuccessful attempts have also been made to introduce the licensing system into Chicago and Baltimore.

PARLIAMENTARY HISTORY OF THE LICENSING SYSTEM IN ENGLAND.



PROCEEDINGS AND ACT IN 1864.

The Parliamentary history of the licensing system in England commences with the introduction, by Lord Clarence Paget, First Secretary to the Admiralty, in the House of Commons, on June 30th, 1864, of a Bill for the "Prevention of contagious diseases at certain naval and military stations." This Bill was referred to a Select Committee, the names of the members of which are given below; and inasmuch as the Bill underwent important changes in the course of its passage through the two houses, it has been held expedient, for purposes of comparison, to transcribe *verbatim* the original Bill, as well as the Act which was ultimately founded upon it. The differences are matters of some importance, as they not only mark real fluctuations of opinion to be found among the early advocates of the regulation system, but indicate distinct policies of various sorts, which might be recurred to again either in this or other countries.

APPENDIX.

LORD CLARENCE PAGET'S
BILL IN 1864.

The common purpose of the Bill and of the Act, was to secure that within the limits of certain selected naval and military stations, every "common prostitute," who should be believed by the police to have a contagious disease of the sort contemplated, should be compelled to resort to a "certified hospital," and to remain there till cured. According both to the Bill and the Act, the belief of the police in the joint facts of a woman being "a common prostitute," and of her having a "contagious disease," was the sole and sufficient ground under the Bill of a woman's being instantly taken into custody and brought before a justice of the peace, and, under the Act, of procuring a summons for the woman to appear, or in the event of her not obeying the summons, of a peremptory order under which she could be taken to a certi-

COMPARISON
OF THE BILL
AND THE ACT.

APPENDIX.
COMPARISON
OF BILL AND
ACT OF 1864.

fied hospital. Thus, under the original Bill, any woman in the district might be, at any moment, apprehended and detained by "any superintendent or inspector of police or constabulary authorised to act in that place on the above-mentioned grounds, without the intervention of any judicial authority." The final Act contemplates the employment of a "superintendent or inspector" of the metropolitan police, as well as a superintendent or inspector of police or constabulary authorised to act in the place; and further provides for the "information" under which proceedings are taken being laid not only by the police, but by "any medical practitioner duly registered as such."

The original Bill contains a clause (13) under which a woman brought before a justice may be imprisoned for a month if it be "proved to the satisfaction of the justice" that "knowingly having a contagious disease she was in a public place for the purpose of prostitution." No similar clause appears in the Act.

The final Act provides for a voluntary submission to examination, but no form for submission is given in the schedule.

It is further noticeable that in the Bill the expressions "common prostitute" and "prostitution" are freely used as occasion requires in a variety of clauses. In the Act these expressions only appear in one section (the 18th), which is directed against owners or occupiers of houses, rooms, places, "knowingly" allowing "common prostitutes," who have a "contagious disease," to resort to such houses, rooms, or places, for the purpose of prostitution. The whole explanation of the true purposes of the Act is conveyed by the form of the Information given in the second schedule. Thus a casual reader of the Act might well believe that it was mainly directed against brothel keepers, and was in other respects an ordinary measure of precaution against familiar diseases. In the Bill, but not in the Act, the term *prostitution* is made to include "*solicitation*," and in the Act specially elaborate provisions, of somewhat perilous constitutional import, are contained for the protection of "persons acting in the execution of the Act" which were not in the Bill. Five places for the application of the measure are also added by the

Act, including the Curragh, Cork, Queenstown. Some light on the origin of the Bill of 1864 is thrown by the observations of the Duke of Somerset, in the House of Lords' debate, (subsequently extracted) on May 15th, 1868. "The evil (of "disease in the army and navy) had reached to an enormous "weight. A ship which came into Portsmouth harbour with "her full complement of seamen in two or three weeks "would hardly be capable of putting to sea. Therefore, in "1864, the department of the Admiralty, after communicating "with the War Office, undertook to bring in the first Contagious Diseases Act."

The following are transcripts of the Bill and the Act :—

A
BILL
FOR

THE PREVENTION OF CONTAGIOUS DISEASES AT CERTAIN
NAVAL AND MILITARY STATIONS.

Whereas it is expedient to make provisions calculated to prevent the spreading of certain contagious diseases in the places to which this Act applies :

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

1. This Act may be cited as The Contagious Diseases Prevention Act, 1864.

2. In this Act—

The term "contagious disease" means venereal disease : Interpretation of terms.

The term "hospital" includes ward of a hospital :

The term "public place" means a thoroughfare or other public street or place, or a room or other place of public resort :

The term "prostitution" includes solicitation.

3. The places to which this Act applies shall be the places mentioned in the schedule hereto, the limits of which places

Act to extend only

APPENDIX. shall for the purposes of this Act be such as are defined in that schedule.

BILL OF 1864.

to places in
schedule.
Provision as
to expenses
of Act.

4. Expenses incurred in the execution of this Act shall be paid under the direction of the Lord High Admiral of the United Kingdom or the Commissioners for executing his office (hereafter in this Act styled the Admiralty), and of such one of Her Majesty's principal Secretaries of State as Her Majesty thinks fit for the time being to intrust with the seals of the War Department (hereinafter in this Act styled the Secretary of State for War), out of money to be provided by Parliament for the purpose.

Appointment
of inspector
of hospitals
under this
Act.

5. The Admiralty and the Secretary of State for War shall, on the passing of this Act, appoint a superior medical officer of Her Majesty's navy or army to be, during pleasure, inspector of hospitals under this Act, and may from time to time, on the death, resignation, or removal from office of any such inspector, appoint another such officer in his stead.

Hospitals to
be examined
and reported
on.

6. On the application of the authorities having the direction or management of any hospital desiring that such hospital should be certified under this Act, the Admiralty and the Secretary of State for War may direct the inspector of hospitals to examine and report to them on the condition of that hospital, and on the regulations established for its direction and management.

Power to
certify
hospitals.

7. If on such examination and report the hospital appears to the Admiralty and the Secretary of State for War to be useful and efficient for the purposes of this Act, and is certified in writing to be so by the Admiralty and the Secretary of State for War, the same shall be deemed a certified hospital for the purposes of this Act; and every such hospital is hereafter in this Act referred to as a certified hospital.

Periodical
inspection.

8. The inspector shall from time to time visit and inspect every certified hospital.

Power to

9. If on the report of the inspector respecting any certified

hospital the Admiralty and the Secretary of State for War APPENDIX.
 think proper to withdraw their certificate, that hospital shall BILL OF 1864.
 thereupon cease to be a certified hospital for the purposes of withdraw
 this Act. certificate.

10. If any common prostitute is in any public place, within the limits of any place to which this Act applies, for the purpose of prostitution, any superintendent or inspector of police or constabulary authorized to act in that place, having good cause to believe that such common prostitute has a contagious disease, may, by order in writing signed by him, direct a constable to take her into custody, and to bring her, as soon as reasonably may be, before a Justice of the peace, to be dealt with according to law ; and the constable to whom such order is directed may, without further warrant, take into custody the woman named in such order, and bring her before a Justice accordingly.

Prostitute believed to have contagious disease, being in thoroughfare, &c., for prostitution, &c., may be apprehended on order of inspector of police.

11. Where, upon any woman being brought before a Justice as aforesaid, it appears to the Justice that she is a common prostitute, and was in such a public place as aforesaid for the purpose of prostitution, the Justice, for the purpose of obtaining medical testimony as to her having a contagious disease, may, if he thinks fit, require her to be examined by a legally qualified medical practitioner, to be called by the Justice to his assistance for this purpose.

Justice may call to his aid medical practitioner.

12. If it is proved to the satisfaction of such Justice that the woman so brought before him is a common prostitute, and that, having a contagious disease, she was, at the time of her arrest, in a public place as aforesaid for the purpose of prostitution, the Justice may order her to be taken to a certified hospital, there to remain until cured.

Woman may be sent to certified hospital.

13. If it is proved to the satisfaction of such Justice that the woman so brought before him is a common prostitute, and that, knowingly having a contagious disease, she was, at the time of her arrest, in a public place as aforesaid for the purpose of prostitution, she shall be deemed guilty of an offence against this Act, and the Justice may order her to be

If knowledge proved she may be also imprisoned.

APPENDIX.

BILL OF 1864.

taken to a certified hospital, there to remain until cured, and may further adjudge her to be imprisoned, in case of a first offence for any term not exceeding *one month*, and in case of a second or subsequent offence for any term not exceeding *three months*, such imprisonment to commence from the time of her legally quitting the hospital.

Penalty for
quitting
hospital.

14. If any common prostitute, having been by order of a Justice under this Act sent to a certified hospital, quits the hospital without being required to do so by the authorities of the hospital, she shall be guilty of an offence against this Act, and on summary conviction thereof before a Justice of the peace shall be liable to be adjudged to be sent to the same or some other certified hospital, there to remain until cured, or, in the discretion of the Justice before whom she is convicted, to be imprisoned for any term not exceeding *four months*.

Power to
apprehend
woman
quitting
hospital
wrongfully.

15. Any Justice of the peace, on information on oath satisfying him that there is good cause to believe that any common prostitute has been guilty of an offence against this Act by quitting a hospital as aforesaid, may issue his warrant for her apprehension, and thereupon any constable may apprehend the woman named in the warrant, and bring her before a Justice, to be dealt with according to law.

Constable
to convey
woman to
hospital.

16. Where any common prostitute is adjudged to be sent to a certified hospital, any constable whom the Justice before whom she is convicted directs shall forthwith, in conformity with an order of the Justice in this behalf, convey her to the hospital accordingly.

Punishment
for misbe-
haviour in
hospital.

17. Any common prostitute who, having been by order of a Justice under this Act sent to a certified hospital, refuses or wilfully neglects while in the hospital to conform to the regulations thereof, shall be guilty of an offence against this Act, and on summary conviction thereof before a Justice of the peace shall be liable to be adjudged to be imprisoned for any term not exceeding *one month*.

Penalty for
permitting

18. If any person, being the owner or occupier of any house, room, or place within the limits of any place to which

this Act applies, or being a manager or assistant in the management thereof, knowingly induces or suffers any common prostitute having a contagious disease to resort to or be in such house, room, or place for the purpose of prostitution, every such person shall be guilty of an offence against this Act, and on summary conviction thereof before a Justice of the peace shall be liable to a penalty not exceeding *twenty pounds*, or, at the discretion of the Justice, to be imprisoned for any term not exceeding *six months*, with or without hard labour.

APPENDIX.
BILL OF 1864.
prostitute having contagious disease to resort to any house, &c., for prostitution.

Provided that a conviction under this enactment shall not exempt the offender from any penal or other consequences to which he or she may be liable for keeping or being concerned in keeping a bawdy house or disorderly house, or for the nuisance thereby occasioned.

19. All proceedings under this Act before and by Justices shall be had according to the provisions of the Act of the session of the eleventh and twelfth years of Her Majesty (chapter forty-three), "to facilitate the performance of the duties of Justices of the peace out of sessions within England and Wales, with respect to summary convictions and orders."

The schedule mentions as the places to which the Bill is to apply, Portsmouth, Plymouth, Woolwich, Sheerness, Aldershot, &c., &c. (*sic*), and ascertains the limits of the several places.

Application of 11 & 12 Vict. c. 43.

ANNO VICESIMO SEPTIMO & VICESIMO OCTAVO

VICTORIÆ REGINÆ.

CAP. LXXXV.

An Act for the Prevention of Contagious Diseases at certain Naval and Military Stations.

[29th July, 1864.]

WHEREAS it is expedient to make provisions calculated to prevent the spreading of certain contagious diseases in the places to which this Act applies :

ACT OF 1864.

APPENDIX. Be it therefore enacted by the Queen's most Excellent
 ACT OF 1864. Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

Short title. 1. This Act may be cited as the Contagious Diseases Prevention Act, 1864.

Act to extend only to places in schedule. 2. In this Act—
 The term "contagious disease" means venereal disease, including gonorrhœa :
 The term "hospital" includes ward of a hospital :
 The term "public place" means a thoroughfare or other public street or place, or a house or room which is open to the inspection of the police.

Act to extend only to places in schedule. 3. The places to which this Act applies shall be the places mentioned in the first schedule hereto, the limits of which places shall for the purposes of this Act be such as are defined in that schedule.

Provision as to expenses of Act. 4. Expenses incurred in the execution of this Act shall be paid under the direction of the Lord High Admiral of the United Kingdom or the Commissioners for executing his office (hereafter in this Act styled the Admiralty), and of such one of Her Majesty's principal Secretaries of State as Her Majesty thinks fit for the time being to intrust with the seals of the War Department (hereafter in this Act styled the Secretary of State for War), out of money to be provided by Parliament for the purpose.

Appointment of inspector of hospitals under this Act. 5. The Admiralty and the Secretary of State for War shall, on the passing of this Act, appoint a superior medical officer of Her Majesty's Navy or Army to be, during pleasure, inspector of hospitals certified under this Act, and may from time to time, on the death, resignation, or removal from office of any such inspector, appoint another such officer in his stead.

Hospitals to 6. On the application of the authorities having the .

direction or management of any hospital desiring that such hospital should be certified under this Act, the Admiralty and the Secretary of State for War may direct the inspector of hospitals to examine and report to them on the condition of that hospital, and on the regulations established for its direction and management.

APPENDIX.

ACT OF 1864.
be examined
and reported
on.

7. If on such examination and report the hospital appears to the Admiralty and the Secretary of State for War to be useful and efficient for the purposes of this Act, and is certified in writing to be so by the Admiralty and the Secretary of State for War, the same shall be deemed a certified hospital for the purposes of this Act; and every such hospital is in this Act referred to as a certified hospital; and the Admiralty and the Secretary of State for War shall state in their certificate what persons or officers for the time being are to be deemed the authorities of the hospital for the purpose of exercising the powers hereinafter given, and the persons or officers so stated shall be such authorities accordingly.

Power to
certify
hospitals
on such
examination
and report.

8. The inspector shall from time to time visit and inspect every certified hospital.

Hospital to
be inspected
from time
to time.

9. If on the report of the inspector respecting any certified hospital the Admiralty and the Secretary of State for War think proper to withdraw their certificate, that hospital shall thereupon cease to be a certified hospital for the purposes of this Act.

Power to
withdraw
certificate.

10. A notice shall be published in the *London* or *Dublin Gazette* (as the case may require) of the granting or withdrawal of any certificate relative to any hospital under this Act; and a copy of the *Gazette* containing any such notice shall be sufficient evidence of such granting or withdrawal; and any such certificate shall be presumed to be in force until the withdrawal thereof is proved,

The granting
or withdrawal
of certificate
to be pub-
lished in
Gazette.

11. Where an information, in the form given in the second schedule to this Act, or to the like effect, is laid before a Justice of the peace by a superintendent or inspector of

On informa-
tion, Justice
may issue
to woman

APPENDIX

ACT OF 1864.
named in
information
a notice as
in second
schedule.

metropolitan police, or by a superintendent or inspector of police or constabulary authorized to act in any place to which this Act applies, or by any medical practitioner duly registered as such, the Justice may, if he thinks fit, issue to the woman named in the information a notice in the form given in the same schedule, or to the like effect.

Constable to
serve notice
on woman.

12. A constable or other peace officer shall serve such notice on the woman to whom it is directed, by delivering the same to her personally, or by leaving the same with some person for her at her last or usual place of abode.

Justice may
order medical
examination
at certified
hospital.

13. In either of the following cases ; namely,—

(1.) If the woman on whom such notice is served appears herself, or by some person on her behalf, at the time and place appointed in the notice, or at some other time and place appointed by adjournment :

(2.) If she does not appear, and it is shown (on oath) to the Justice present that the notice was served on her a reasonable time before the time appointed for her appearance, or that reasonable notice of such adjournment was given to her (as the case may be) :

the Justice present, on oath being made before him substantiating the matter of the information to his satisfaction, may, if he thinks fit, order such woman to be taken to a certified hospital for medical examination.

Medical
examination
at certified
hospital.

14. Such order shall be a sufficient warrant for any constable or peace officer to whom the order is delivered to apprehend such woman, and to convey her with all practicable speed to the hospital therein named, and for the authorities of the hospital to cause her to be examined by some medical officer of such hospital, for the purpose of ascertaining whether or not she has a contagious disease, and in case, on such examination, it is ascertained that she has a contagious disease, then to detain her in the hospital for twenty-four hours from the time of her being brought there.

Power for
woman to
submit to

15. Any woman on whom notice is served by any constable or peace officer, in pursuance of this Act, may

signify to him her willingness to submit herself voluntarily for examination to the medical officers of the nearest certified hospital; and in that case it shall be the duty of such constable or peace officer to accompany her to such hospital, and her examination shall then be made in the same manner and with the same consequences as if she had been brought to that hospital to be examined in pursuance of the order of a Justice.

APPENDIX.
ACT OF 1864.
examination
voluntarily.

16. Within the said period of twenty-four hours the authorities of such hospital shall cause a certificate, signed by the medical officer who has made such examination, stating (if the fact be so) that on such examination it has been ascertained that such woman has a contagious disease; to be made out and laid before the Justice by whom the order was made, or some other Justice having the like jurisdiction; and thereupon such Justice may, if he thinks fit, order the authorities of such hospital to detain such woman in the hospital for medical treatment until discharged by such authorities, and such order shall be a sufficient warrant to such authorities to detain such woman, and such authorities shall detain her accordingly; provided that no woman shall be detained under any such order for a longer period than three months.

Under order
of Justice
woman may
be detained
for medical
treatment
in hospital.

17. If any woman ordered as aforesaid to be taken to a certified hospital for medical examination refuses to submit to such examination, or if any woman ordered to be detained in a certified hospital for medical treatment refuses or wilfully neglects while in the hospital to conform to the regulations thereof, or quits the hospital without being discharged from the same as aforesaid, every such woman shall be guilty of an offence against this Act, and on summary conviction thereof before two or more Justices of the peace shall be liable to imprisonment in the case of a first offence, for any term not exceeding one month and in the case of a second or any subsequent offence for any term not exceeding two months.

Penalty for
refusing to
be examined,
or to conform
to rules, or
quitting
hospital.

18. If any person, being the owner or occupier of any

F F

Penalty for
permitting

APPENDIX.

ACT OF 1864.
 prostitute
 having con-
 tagious dis-
 ease to resort
 to any house,
 &c., for pros-
 titution.

house, room, or place within the limits of any place to which this Act applies, or being a manager or assistant in the management thereof, knowing or having reasonable cause to believe any common prostitute to have a contagious disease, induces or suffers such common prostitute to resort to or be in such house, room, or place for the purpose of prostitution, every such person shall be guilty of an offence against this Act, and on summary conviction thereof before two or more justices of the peace shall be liable to a penalty not exceeding ten pounds, or, at the discretion of the Justices, to be imprisoned for any term not exceeding three months, with or without hard labour.

Provided that a conviction under this enactment shall not exempt the offender from any penal or other consequences to which he or she may be liable for keeping or being concerned in keeping a bawdy house or disorderly house, or for the nuisance thereby occasioned.

Application
 of 11 & 12
 Vict. c. 43,
 and 14 & 15
 Vict. c. 93.

19. All proceedings under this Act before and by Justices shall be had, in England according to the provisions of the Act of the session of the eleventh and twelfth years of Her Majesty (chapter forty-three), "to facilitate the performance "of the duties of Justices of the peace out of sessions within "England and Wales, with respect to summary convictions "and orders," and in Ireland according to the provisions of The Petty Sessions (Ireland) Act, 1851, save so far as those provisions respectively are inconsistent with any provision of this Act, and save also that, except where the woman concerning whom an information is laid under this Act in the form given in the second schedule desires the contrary, the room or place in which a Justice sits to inquire into the truth of the statements contained in any such information shall not be deemed an open court for that purpose, and, except in the case aforesaid, such Justice may in his discretion order that no person have access to or be or remain in that room without his consent or permission.

Forms in
 second
 schedule to
 be used.

20. The forms of orders and certificate given in the second schedule to this Act shall be used for the purposes of this Act, with such variations as circumstances may require.

21. For the protection of persons acting in the execution of this Act,—all actions and prosecutions against any person for anything done in pursuance or execution or intended execution of this Act shall be laid and tried in the county where the fact was committed, and shall be commenced within three months after the fact committed, and not otherwise ; and notice in writing of such action and of the cause thereof shall be given to the defendant one month at least before the commencement of the action : and in any such action the defendant may plead generally that the Act complained of was done in pursuance or execution or intended execution of this Act, and give this Act and the special matter in evidence at any trial to be had thereupon ; and the plaintiff shall not recover in any such action if tender of sufficient amends is made before such action brought, or if a sufficient sum of money is paid into court after such action brought, by or on behalf of the defendant ; and if a verdict passes for the defendant, or the plaintiff becomes nonsuit, or discontinues any such action after issue joined, or if upon demurrer or otherwise judgment is given against the plaintiff, the defendant shall recover his full costs as between attorney and client, and have the like remedy for the same as any defendant has by law in other cases ; and though a verdict is given for the plaintiff in any such action, such plaintiff shall not have costs against the defendant unless the judge before whom the trial is had certifies his approbation of the action and of the verdict.

APPENDIX.

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Limitation of actions, &c.

22. This Act shall not come into force in any place mentioned in the said first schedule until a hospital situate within or within fifty miles of the outward limits of such place shall have been duly certified, and notice of its having been so certified been duly given in manner provided by this Act.

As to time of this Act coming into force.

23. This Act shall continue in force for three years from the passing thereof, and no longer.

Continuance of Act.

APPENDIX.

ACT OF 1864.

THE FIRST SCHEDULE.

The first schedule mentions as the places to which the Act is to apply : Portsmouth, Plymouth, Woolwich, Chatham, Sheerness, Aldershot, Colchester, Shorncliffe, the Curragh, Cork, and Queenstown. The schedule marks the limits of the several places.

THE SECOND SCHEDULE.

Form of Information.

{ THE information of *C. D.* of _____, superintendent
 to wit. } of police for _____ [or medical practitioner,
 or as the case may be], taken this _____ day of _____
 186 _____, before the undersigned, one of Her Majesty's Justices of the
 peace in and for the said [county] of _____ who says he
 has good cause to believe that *A. B.* of _____ in the [county]
 of _____ is a common prostitute, and has a contagious
 disease within the meaning of The Contagious Diseases Prevention
 Act, 1864, and within fourteen days before the date of this information
 that is to say, on _____ day, the _____ day of _____
 _____, was in a public place within the limits of a place to
 which the said Act applies, that is to say, in _____ street,
 in the parish of _____, for the purpose of prostitution.
 Taken before me the day and year first above mentioned.

(Signed) *L. M.*

The schedule further contains a form of notice, a form of order for examination, a form of medical certificate, and a form of order for detention in hospital.

The bill was brought into the House of Commons by Lord Clarence Paget, Sir John Pakington, Sir Morton Peto, and Sir James Fergusson.

HISTORY OF
BILL OF 1864.

On June 20th, 1864, it was read the first time; on June 27th it was read a second time, and referred to a Select Committee composed of Lord Clarence Paget, Sir John Pakington, Mr. Walpole, Mr. Hennessy, Mr. Hunt, Lord Hotham, Sir J. Fergusson, General Peel, Mr. Liddell, Sir Harry Verney, Mr. Ayrton, Sir M. Peto, Sir John Trelawny, Mr. Kinnaird, Mr. Locke, the Marquis of Hartington, Sir George Grey, Captain Jervis, and Mr. Longfield. Five were to be a quorum.

On July 15th the Committee reported, and the bill was re-committed. APPENDIX

On July 19th the Committee reported again.

HISTORY OF
BILL OF 1864.

On July 20th the bill was considered as amended.

On July 21st the bill was read a third time.

In the House of Lords—

The bill was introduced by the Duke of Somerset, and

On July 22nd it was read a first time.

On July 23rd it was read a second time and committed.

On July 25th the Committee reported.

On July 26th the bill was read a third time.

On July 29th the bill received the Royal assent.

On referring to Hansard, it will be seen that no debate occurred at any stage of the proceedings in either House, and that in the House of Commons the bill passed through each of its most important stages at the close of an unusually late sitting. These remarks are the more pertinent when considered in reference to the serious differences between the Bill and the Act.

In the autumn of the same year, 1864, a Committee was appointed by the authorities of the Army and Navy "To
"Inquire into the pathology and treatment of the Venereal
"Disease, with the view to diminish its injurious effects on
"the men of the Army and Navy."
COMMITTEE OF
1864 ON
VENEREAL
DISEASES.

The following letter describes the origin of this Committee, and the purpose and limits of its investigations :—

LETTER FROM REAR-ADMIRAL THE RIGHT HON.
LORD CLARENCE PAGET, C.B., FIRST SECRETARY
TO THE ADMIRALTY, TO F. C. SKEY,
CHAIRMAN OF THE COMMITTEE.

" ADMIRALTY, 13th October, 1864.

" SIR,

" I am commanded by my Lords Commissioners of
" the Admiralty to acquaint you that the Secretary of State
" for War and the Board of Admiralty, with the view to
" diminishing the injurious effects of the Venereal Disease on
LORD C.
PAGET'S
LETTER TO
MR. SKEY.

APPENDIX.
COMMITTEE ON
VENEREAL
DISEASES,
1864.

LORD C.
PAGET'S
LETTER TO
MR. SEKY.

"the men of the Army and Navy, have decided on instituting a Committee to inquire into the best mode of treatment of the disease.

"It is to be hoped that much good, not only to the two services, but also to the profession generally, and the public at large, may result from a careful and dispassionate consideration of the question.

"The Secretary of State for War and the Board of Admiralty hope that you will be able to secure the attendance, as witnesses, of such medical men as, from their experience and attainments, it may be most desirable to examine. They feel sure that you will meet with every assistance from the members of a learned and liberal profession.

"They would suggest for the Committee the importance of obtaining the advantage of the experience and learning of their brethren in several of the capitals of Europe. For this purpose it might be desirable to depute one or more of their members to inquire and report on the treatment adopted in the best hospitals, civil and military, abroad.

"Their lordships have been informed that there is no question in medicine and pathology in which there is so great a diversity of opinion amongst medical men of the greatest eminence. They are, therefore, anxious that the consideration of the Committee should mainly be directed to discover a sound principle of treatment of the disease known under the name of syphilis.

"They are desirous that the question of the pathology of the disease should be considered by the Committee only to such an extent as they may deem absolutely necessary to enable them to deal with the main object of the inquiry—namely, the attainment of a sound rule of treatment. It is their lordship's wish particularly to draw the attention of the Committee to the subject of the treatment of syphilis by mercury; and, with the concurrence of the Committee, they would propose the following subjects for their discussion:—

"I. Whether mercury is an agent to be indiscriminately resorted to in the treatment of syphilis?

- “II. The proportion and nature of the cases in which
 “its administration is useful or necessary. APPENDIX.
- “III. The proportion and nature of the cases, if any, of
 “primary and secondary disease, in which it may
 “be entirely dispensed with ; characterizing the
 “forms of disease, if any, in the treatment of
 “which mercurial agency is not required. COMMITTEE ON
 VENEREAL
 DISEASES,
 1864.
 SUBJECTS FOR
 DISCUSSION.
- “IV. The best antidotes in injurious mercurial action
 “on the human system.
- “V. Any practical rules which the Committee can sug-
 “gest to the Naval and Military authorities to
 “diminish the frequency of the cases of contagion,
 “and which are capable of adoption in the daily
 “life of the ship or barrack.
- “I am, Sir,
 “Your most obedient servant,
 “(Signed) C. PAGET.”
- “F. C. Skey, Esq.”

The Committee, as originally selected by the Chairman, and approved by the Lords Commissioners of the Admiralty, and the Secretary of State for War, consisted of Mr. Skey (Chairman), Mr. Cock, Dr. Kirkes, Mr. Quain, Mr. Spencer Smith (Secretary), Dr. Wilks, with Dr. T. Graham Balfour (appointed to represent the Army Medical Board,) and Dr. Donnet (to represent the Naval Medical Board). On the death of Dr. Kirkes, the vacancy was filled by the appointment of Dr. Babington, “whose loss,” the Committee say, “they had also great occasion to deplore.”

PROCEEDINGS IN 1866.

APPENDIX.
REPORT OF
COMMITTEE ON
VENEREAL
DISEASES,
1866.

The Committee on Venereal Diseases forwarded, in February, 1866, the part of their Report which related to the prevention of the disease, to the Government authorities and Members of Parliament who might be concerned in adopting their recommendations and amending the Act of 1864. The complete report itself was not published and presented to both Houses of Parliament till the year 1868. It is a very significant fact that the Report, which was in the hands of Government at the commencement of 1866, contained a lengthy, elaborate, and precise account (mostly borrowed from Parent-Duchâtelet's work) of the licensing system as existing in Paris.

The following are the terms of so much of the Report as is not of a purely medical nature.

SELECTIONS FROM THE REPORT OF COMMITTEE ON THE TREATMENT AND PREVENTION OF VENEREAL DISEASES, PRINTED IN 1866, AND PUBLISHED IN 1868.

TO THE RIGHT HONOURABLE THE LORDS COMMISSIONERS OF THE ADMIRALTY, AND THE RIGHT HONOURABLE THE SECRETARY OF STATE FOR WAR.

The Committee appointed to inquire into the best mode of treatment of the venereal disease, with a view to diminish its injurious effects on the men of the army and navy, have the honour to submit the following report :—

“The evidence appended shows that the Committee have
“derived information from very varied sources. Sixty-four

“witnesses of experience in different branches of the subject under inquiry, appeared before them. APPENDIX.

“Fifty-six members of the medical profession engaged in civil practice and in the medical departments of the navy and army readily gave in evidence the valuable results of their experience upon the nature and treatment of the disease. REPORT OF
COMMITTEE ON
VENEREAL
DISEASES,
1866.

“That part of the report which relates to the prevention of venereal disease, having been required for the use of the Legislature, was forwarded to the authorities in February, 1866, and an Act, entitled ‘An Act for the better Prevention of Contagious Diseases at certain Naval and Military Stations,’ 11th June, 1866, was passed in the last session of Parliament, in entire accordance with the recommendations of your Committee. A copy of that Act is appended to this report.

* * * * *

“The Committee have examined upwards of sixty witnesses, including the highest authorities of the army and navy, medical officers of both services, and such members of the civil branch of the profession as were deemed likely from their opportunities of observation or great practical experience in the treatment of venereal disease, to be able to give useful information on the subjects under investigation, and here (although it must be again referred to in another portion of the more extended report) the Committee cannot neglect the opportunity of calling attention to the evidence of the many distinguished authorities so strongly confirming the opinion which has of late years been increasing in strength amongst the profession, as to the fatal effects of syphilis on the human offspring. They testify to its prevalence amongst all classes of society, its insidious nature, the frequent failure of all but men of experience to recognise it, and, moreover, to the most important fact that the poisoned *fœtus in utero* is no infrequent cause of miscarriage in women.

“Proceeding to consider the question of prevention of venereal diseases, it was obvious to the Committee that

APPENDIX. " *The Contagious Diseases Prevention Act* claimed their first
 " attention.

REPORT OF
 COMMITTEE ON
 VENEREAL
 DISEASES,
 1866.

" The evidence shows that in one most important point
 " that Act has proved successful, and in just that particular
 " in which it might, *à priori*, have been expected to fail, viz.,
 " that which relates to the feelings of the unfortunate women
 " with whom it has to deal ; so far from opposing its opera-
 " tion, they appear to appreciate its value to themselves.
 " Magisterial interference in its operation is the exception.
 " Out of 752 informations laid, all the women attended
 " voluntarily but 6 ; and there is evidence to show that they
 " would be tolerant of even further interference, having their
 " health for its object. On the other hand, that the Act is
 " defective in many particulars is proved by an immense body
 " of evidence ; out of 60 witnesses examined, 42 either
 " declared the Act did not ' go far enough,' or offered opinions
 " upon the directions in which its powers should be increased ;
 " of the 18 remaining, 5 stated that they were not acquainted
 " with its provisions, and the others, having been called to
 " give evidence upon special points of pathology, were not
 " examined respecting it. The points in which the Act, as
 " it now stands, appears to the Committee to be specially
 " defective are these, viz :—

" First. That the evidence commonly obtained as to the
 " existence of disease in the women is bad of its
 " kind, and inconclusive, and the mode of obtaining
 " it very objectionable. The evidence of the police
 " shows three sources of information : First. That
 " of the soldiers and sailors affected, which is
 " declared to be, for various causes assigned, almost
 " worthless ; second, that of the brothel keeper,
 " who for obvious reasons will not declare a girl to
 " be diseased until she is so ill as to be a burden
 " instead of a source of profit ; and third, that of
 " companions, who are frequently actuated by
 " ' spite.'

" Second. That even if the evidence of the man (not
 " infrequently drunk) were worthy of credence, he

“ may not exhibit signs of infection for twelve or
 “ fifteen days after intercourse, during the whole of
 “ which time the woman may have infected many
 “ other men.

APPENDIX.
 REPORT OF
 COMMITTEE ON
 VENEREAL
 DISEASES,
 1866.

“Third. That in some localities the Act works with
 “ difficulty, and is slow of operation, Q. 6908 to
 “ 6915 ; and

“Fourth and mainly. That it does not enable the
 “ authorities to seize upon and eradicate disease at
 “ its source and in its earliest stages, when soonest
 “ and most easily cured. Those prostitutes only
 “ against whom information is laid are liable to
 “ compulsory examination under the present Act.
 “ No fallacy can be greater than that which pre-
 “ sumes on the power of detecting the presence of
 “ venereal disease in the system through the fea-
 “ tures and aspect of the subject of it. There is no
 “ indication known to the medical profession de-
 “ noting its presence in the features of a patient
 “ until it has reached the constitutional or eruptive
 “ stage, and in the large proportion of cases there
 “ is no eruption at all. This fact applies with
 “ equal force to the question of examination of
 “ both sexes. The evidence obtained by the Com-
 “ mittee from the large body of witnesses on this
 “ subject is entirely conclusive in favour of the
 “ absolute necessity of subjecting prostitutes to
 “ compulsory periodical examination, of their im-
 “ mediate separation from the community when
 “ found to be diseased, and their seclusion in
 “ hospital until cured. They deem these measures
 “ indispensable to any progress to be made with a
 “ view to diminish the prevalence of venereal disease,
 “ and in confirmation of the necessity of passing a
 “ law to this effect, they beg to state that these
 “ conditions strictly prevailed in all places in which
 “ success has attended the effort to diminish it.

* * * * *

APPENDIX.
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1866.

"The Committee, then, earnestly recommend that the following additional powers should be obtained under an amended Act, viz. :—

"First. That, assuming it to be an indisputable fact
"that the power to repress venereal disease holds
"close relation with the power to obtain access to
"it in its early stages, during which it is more
"virulent and more readily communicated to per-
"sons susceptible of infection, *a periodical inspection*
"*or examination of all known prostitutes be made*
"*compulsory, under a well organised system of*
"*medical police.*

"Second. That a surgeon be appointed by Government
"in each town for this duty; the said examina-
"tion to be made by him either at the homes
"of the women, or at a dispensary or hospital
"appointed for the purpose; and that such sur-
"geon be provided with the necessary powers for
"sending to lock hospitals all women found to be
"diseased either with primary venereal affections
"or constitutional syphilis; and for retaining them
"there until cured or restored to their friends.

"Third. That a penal clause be introduced into the Act
"for the purpose of punishing those who infringe
"its regulations.

"Fourth. That the operation of the Act be extended to
"all garrison and seaport towns in the kingdom
"where troops or ships of war are stationed.

"Fifth. That a clause be introduced for the prevention
"of the residence of prostitutes in public-houses
"and beershops.

"The Committee also recommend that all the lock hospital
"accommodation required under the Act should be, as far
"possible, in the hands of the Government, and independent
"of private management.

“ They also recommend that, wherever possible, a stipen-
 “ diary magistrate should be appointed, or a fitting medical
 “ man invested with magisterial powers, as more likely than
 “ a non-professional man to take an active interest in the
 “ efficient working of this Act; and also that the jurisdic-
 “ tion of such magistrate should be extended beyond the
 “ limits of the military or naval stations included under the
 “ operation of the Act. See Q. 1001, 3, and 6912.

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“ They also feel that more particular instructions should
 “ be given to the borough police in the garrison and seaport
 “ towns, with a view to prevent the open solicitation by
 “ prostitutes in the public streets, and the scandalous and
 “ barefaced immorality which is spoken of by some of the
 “ witnesses as disgracing Portsmouth and other towns of
 “ the same class; indeed, they cannot forbear stating their
 “ opinion, founded on the testimony before them, that the
 “ entire control of prostitutes might be safely confided to
 “ a judicious police administration, under the immediate
 “ sanction of a Secretary of State.

“ The Committee would have more hesitation in so earn-
 “ estly recommending a periodical examination of the public
 “ prostitutes under the Act, and their seclusion until cured,
 “ did they not confidently feel that in so doing they are
 “ acting, not only in the interest of the community, but
 “ especially so in that of the women themselves, with whom
 “ their profession has taught them deeply to sympathise,
 “ and were they not, moreover, convinced that such exami-
 “ nation in nowise involves the legalisation or, in any respect,
 “ the encouragement of vice. They believe that by a treat-
 “ ment, while in hospital, marked by sympathy and kindness,
 “ by a careful selection of attendants, and by the co-operation
 “ of judicious friends, many of these women may be brought
 “ to a sense of their past degradation, and their intercourse
 “ with the world be renewed with credit. The seclusion of
 “ the women in known and recognised hospitals would afford
 “ the earnest and zealous sympathisers with this class the
 “ easiest and fullest opportunity for ministering to their
 “ need. For the full confirmation of this statement, the
 “ Committee appeal with satisfaction and confidence to

APPENDIX. "the Report on Prostitution in Paris, appended to this
"Report."

REPORT OF
COMMITTEE ON
VENEREAL
DISEASES,
1866.

REASONS OF DISSENT FROM THAT PORTION OF THE REPORT
OF THE VENEREAL DISEASES COMMITTEE WHICH RELATES
TO THE MEANS OF PREVENTION.

SURGEON-
MAJOR
BALFOUR'S
DISSENT.

"I regret that I differ from my colleagues so strongly
"on some of the more important points in this part of the
"Report, that I feel it to be my duty to place upon record
"my grounds of dissent.

"I. I cannot concur in the recommendation to introduce
"a system of weekly examination of all known prostitutes.
"The Committee do not state in what manner they intend
"this measure to be worked ; but I do not see how it could be
"done efficiently without adopting a system of registration,
"as in France. (Q. 6885.) This would, in my opinion,
"involve the legislative recognition of prostitution as a
"branch of industry. It appears to me that the direction
"which should be taken in legislative interference on this
"subject ought to be that of repression, not of protection,
"and that its aim should be to keep prostitution within
"limits rather than to afford increased facilities for pro-
"miscuous intercourse of the sexes, which seems an unavoid-
"able result of such recognition.

"Every one who has paid any attention to the subject,
"must admit the impossibility of putting down prostitution ;
"but this cannot be held as a reason for fostering it. There
"are other evils which legislation has failed to suppress—
"such as vagrancy and mendicancy ; but this fact has
"never been recognised as an adequate reason for permitting
"them to be carried on, even in a modified form, under
"police supervision.

"The Committee, in enforcing their recommendation of a
"weekly examination of common prostitutes, connect it with
"the question of the reformation and restoration to society
"of this class. That much may be done by judicious
"sympathy with the women in lock hospitals is a well-
"known fact ; but this may be equally accomplished without
"the aid of weekly inspections. It will scarcely be sug-

“gested that the work of reformation is likely to be carried
 “on by the examining surgeon, or the superintendent of
 “police.
 “In submitting the following suggestions, it may be
 “necessary to observe that some of them are identical with
 “those made by the Committee; but I have deemed it
 “advisable to re-state them as part of a scheme, rather than
 “to confine my recommendations to those points on which I
 “differ from my colleagues.
 “The following are the recommendations which I offer for
 “the consideration of the authorities :—

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 1866.
 SURGEON-
 MAJOR
 BALFOUR'S
 DISSENT AND
 RECOMMENDA-
 TIONS.

“I.—*With reference to Prostitutes.*

- “1. That the Contagious Diseases Prevention Act,
 “amended as hereafter stated, be extended to all
 “garrison towns, and to all seaport towns where
 “there are Government dockyards and arsenals, or
 “which are recognised stations of ships of the
 “Royal Navy.
- “2. That the clauses in the Towns Police Clauses Act
 “(10 & 11 Vict. c. 39, cl. 28 and 35) which relate
 “to common prostitutes, or night-walkers, loitering
 “about and importuning passengers for the purpose
 “of prostitution, and which interdicts the assembly
 “of prostitutes in public-houses and beershops be
 “introduced into the Act.
- “3. That more ample powers than at present exist be
 “given to the police entrusted with the execution
 “of the Act, for the surveillance of brothels and
 “the suppression of disorderly conduct in them.
- “4. That the 18th clause of the Act be amended so as
 “make it an offence on the part of brothel-keepers
 “to harbour a diseased prostitute, without making
 “it imperative to prove that they have done so
 “*knowingly.*
- “5. That authority be given to the magistrate, if he think

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1866.

SURGEON-
MAJOR
BALFOUR'S
RECOMMENDA-
TIONS.

“ fit, to send any common prostitute or night-
“ walker, who shall be brought before him, charged
“ with the offence of loitering and importuning
“ passengers, to the lock hospital for examination,
“ and, should she be found to be diseased, to order
“ her detention there under the provisions of the
“ Act.

“ 6. That ample hospital accommodation for all diseased
“ women brought in by the police, or voluntarily
“ applying for admission, be provided ; arrange-
“ ments being made to obtain temporary accommo-
“ dation in the event of an unforeseen increase in
“ the number of cases.

“ 7. That in case, at the end of the three months
“ authorised by clause 16 of the Act, any woman
“ detained in hospital under the Act shall still be
“ affected with syphilis, the magistrate shall have
“ authority, on the recommendation of the medical
“ officer in charge of the lock hospital, to extend
“ the period of her detention for an additional
“ three months, or so much of that period as may
“ be deemed necessary.

“ 8. That the magistrate be empowered to order the
“ detention of any diseased prostitute who shall
“ have voluntarily gone into the lock hospital for
“ treatment, until such time as she is dismissed by
“ the proper authority, notwithstanding she may
“ wish to leave previously.

“ 9. That the execution of the Act, so far as relates to
“ the surveillance of brothels and the enforcement of
“ the clauses relating to common prostitutes, or night-
“ walkers, be confided to superintendents or in-
“ spectors of the metropolitan police, who shall act
“ under orders from the chief commissioner, and
“ from the magistrate specially appointed under the
“ Act, and shall be empowered to call upon the

“ local police for such assistance as may be necessary
“ for the efficient working of the Act.

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RECOMMENDA-
TIONS OF DR.
T. GRAHAM
BALFOUR.

- “ 10. That in each town in Great Britain to which the
“ Act shall be extended, a military or naval officer
“ on the staff, or medical officer on half-pay, be ap-
“ pointed to be a magistrate *pro tem.* of the district
“ included under the operation of the Act, with
“ power to give all such orders authorised by the
“ Act, as may seem to him necessary for the purpose
“ of efficiently carrying its intentions into effect ;
“ and that in Ireland this duty be performed by
“ the stipendiary magistrates.

- “ 11. That, with a view to remove any uncertainty as to
“ the meaning of the words ‘ garrison and seaport
“ ‘ towns,’ the Secretary of State for War and the
“ Admiralty be empowered to name from time to
“ time such towns as, in their opinion, should be in-
“ cluded under the operation of the Act, a notifica-
“ tion of the same being inserted in the ‘ London
“ ‘ Gazette.’

“ T. GRAHAM BALFOUR,

“ *Deputy-Inspector General (of Hospitals).*”

Upon the recommendations contained in the above report,
a Bill was founded which, as has been explained at length in
the previous chapters of this work, contained, and yet
speciously disguised, all the essential features of the licensing
system as existing on the Continent.

March 15th. Lord Clarence Paget moved for leave for Mr.
Childers and himself to bring in the bill.

INTRODUCTION
OF BILL OF
1866.

March 16th. The bill was read the first time.

March 22nd. The bill was read a second time after the
following short debate.

DEBATE IN THE HOUSE OF COMMONS, 1866.

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MARCH 22ND,
1866.
LORD C.
PAGET.

LORD CLARENCE PAGET (first Secretary of the Admiralty), in moving the second reading of this measure, explained that it was intended to renew an Act passed in 1864, for the health of our soldiers and sailors in the various ports, with additional powers recommended by a committee of medical men. It was proposed to refer the bill to a select committee.

MR. HENLEY.

MR. HENLEY said the measure was a very queer bill upon a very queer subject. The object was to preserve the health of her Majesty's troops, and its endeavour was to remove all the penalties which a higher Power imposed upon sin, and to give the opportunity of sin without the punishment. He must appeal to the Chancellor of the Exchequer whether they could expect any blessing upon their legislation if they took those unhappy women, freed them from disease, and then turned them loose to follow the same wretched courses, without any attempt to reclaim them. Inspectors were to be appointed for their bodies, but it was not proposed to take any advantage of the opportunity afforded by the curing of disease to induce them to lead a better life on their discharge. The principle of the measure had been in operation since the middle of 1864, but its effect did not appear to have been very satisfactory, for in the last report on the navy the medical gentlemen made the following note :—"Little or no diminution of disease in the home ports, on account of this legislation." He regarded this legislation as vicious if unaccompanied by any attempt at reclamation, and he hoped the right hon. gentleman would introduce in committee provisions with that object.

MR. AYRTON.

MR. AYRTON said his objections to the measure were still stronger than on the introduction of the original Act. Even in France a flimsy veil was thrown over these proceedings, by the suggestion of something being done to reclaim these unhappy creatures; but in this country the government assumed no cloak of decency or morality by proposing anything for their benefit. It was simply a bill for keeping

public women at the public expense, for the gratification of our soldiers and sailors. No useful or moral end was intended, the end in view being vice—unmitigated vice,—the administration of the army and navy being so inefficient that government was obliged to propose this bill for the sustentation of vice. Such a proposal was a disgrace to the country, and if the bill passed, he should regard it as his duty, when addressing a popular audience, to tell them that taxes were wrung from them for the purpose of maintaining vice for the gratification of the army and navy. The Chancellor of the Exchequer would assume a heavy responsibility if he allowed the bill to pass into law, and he (Mr. Ayrton) hoped that if it went to a committee composed of civilians, they would take a proper view of it, and that the house would never hear of it again.

APPENDIX.
DEBATE IN
HOUSE OF
COMMONS,
MARCH 22ND,
1866.

THE CHANCELLOR OF THE EXCHEQUER (Mr. W. E. Gladstone) said that it was hardly possible this subject should be discussed with the fulness which would be desirable. His noble friend, in proposing the second reading of the bill, had merely proposed the continuation of a system which had received the sanction of Parliament. Neither his noble friend nor her Majesty's government was desirous of flinching from a full consideration of the numerous difficulties by which this matter was surrounded; and the noble lord had announced his intention, at the proper time, to propose that the bill be referred to a select committee. The object of the government was to have all the assistance on the subject which the intelligence and impartial judgment of parliament could afford. They wished the matter to be examined free from prejudice of any kind. He therefore hoped there would be no objection to having the bill read a second time.

MR. W. E.
GLADSTONE.

After a few unopposed motions, the house adjourned at a quarter after one.

On April 9th the following Select Committee was nominated :—

Lord C. Paget, Sir John Pakington, Mr. Walpole, Mr. Hunt, Lord Hotham, Sir James Ferguson, General Peel, Sir H. Verney, Admiral Erskine, Sir Morton Peto, Mr.

APRIL 9TH,
1866.
APPOINTMENT
OF SELECT
COMMITTEE.

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PROGRESS OF
THE BILL IN
THE HOUSE OF
COMMONS,
1866.

Ayrton, Mr. Kinnaird, Mr. Locke, the Marquis of Hartington, Sir G. Grey, Colonel and Mr. Morley. Five were to make a quorum.

On April 13th Lord Hotham was discharged, and Sir Charles Russell added.

On April 20th the Report of the Committee was presented, and on

April 20th a fresh Report on recommittal was presented.

On April 24th a formal resolution in committee of the whole House was agreed to as to the payment of expenses under the Act by money to be provided by Parliament.

On April 27th the bill was considered as amended; and on April 30th the bill was read a third time.

HOUSE OF
LORDS.

In the House of Lords the bill was introduced by the Duke of Somerset and read a first time on May 1st, a second time on May 7th, and a third time on May 17th. The bill received the Royal Assent on June the 11th.

The terms of the Act (29 Vict. c. 35) have already been given (on page 344) as part of the existing law.

PROCEEDINGS IN 1868.



At a very early period of the session of 1868, that is on APPENDIX.
February 17th, the following question was put to the Govern- FEBRUARY
ment by Lord Robert Cecil :—" Whether it was the intention 17TH, 1868.
" of Government to move for a sufficient sum to extend the LORD ROBERT
" benefits of the Contagious Diseases Act to every camp, CECIL.
" garrison, and seaport town in the United Kingdom, con-
" sidering the large percentage of soldiers and sailors whose
" services are now wholly or partially lost to the state in con-
" sequence of its partial and incomplete adoption."

Sir John Pakington (Secretary for War) replied that it SIR JOHN
would be found that the vote for carrying out the Act was PAKINGTON.
considerably increased.

On March 17th, in reply to a question of Major Dixon's as to whether it was intended to extend the Act to Dover, Sir John Pakington replied that this could not take place till proper hospital accommodation was provided; that, as a matter of fact, a hospital would shortly be opened at Dover.

On the 19th of May the House of Lords appointed a MAY 19TH,
" Select Committee to consider the Contagious Diseases Acts HOUSE OF
" 1866." The following were appointed members of the LORDS' SELECT
COMMITTEE.
Committee :—

The Duke of Somerset, the Duke of Cleveland, the Earl of Devon, Earl de Grey, Earl Nelson, Viscount Lifford, Viscount Templetown, Lord Silchester, Lord Clandeboye, Lord Ebury, and Lord Penrhyn.

The Committee reported on July 2nd, and their recommendations, coupled with the recommendations of the Select Committee appointed by the House of Commons in the following year, were embodied in the amending Act of 1869.

The following selections from the evidence presented before

APPENDIX. this Committee on the leading characteristics of the licensing
 LORDS' SELECT system which have been commented upon in the previous part
 COMMITTEE OF 1868. of this work are here appended as affording the clearest picture
 of the views of the promoters of the system at a time when
 no public agitation had as yet checked free speculation and
 imposed the necessity of cautious utterance. The selections
 are made with reference to the essential features of the legis-
 lation as completed by the Act of 1869, passed in pursuance
 of the recommendations of the Committee.

SELECTIONS FROM EVIDENCE PRODUCED BE-
 FORE THE SELECT COMMITTEE OF THE
 HOUSE OF LORDS IN 1868.

LORDS' SELECT CONTROVERSY AS TO THE PREVALENT INTENSITY OF
 COMMITTEE OF THE DISEASE.
 1868.

MR. SKEY'S MR. FREDERICK CARPENTER SKEY, F.R.S., *Chairman of the*
 EVIDENCE. *Committee on Venereal Diseases.*

EXTENT OF
 DISEASE.

628. I understood you to say just now that you thought that the case had been rather overstated by the Association; did that remark apply to the extent of the number of cases of disease, or to the virulence of the disease?—I think the reports are too highly drawn. I think if you took the impression of any individual on reading those reports, you would infer an extent of syphilis in society far beyond the truth—very decidedly beyond the truth; it is not so common and it is not so severe.

634. There is one thing which, from reading the report of the Association to which you have referred, would be conveyed to one's mind which is that the disease is considerably on the increase; do you think that that is an exaggeration?—I do think it is; I do not think it is on the increase. It is only reasonable that it should be supposed to be on the increase from the increased vigilance that has occurred with regard to the inquiry, particularly since the Committee of the Admiralty sat. Not only in this country, but abroad, on the Continent and in America, there has been an increased

vigilance in the study and observation of all venereal diseases, and if it had done no other good than that, I think that that Committee was of essential service.

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COMMITTEE OF
1868.

MR. JAMES PAGET, F.R.S.

684. You heard Mr. Skey's evidence about going very gradually to work as to extending the Act, and almost every witness we have had has pressed the same point. Will you give us your opinion as to how we should proceed?—It sounds to me a question of policy rather than of surgery. I can only say, the sooner the better; but how much sooner must be a matter for consideration, and also how far it would be consistent with good policy to compel persons to submit to this law. The evil seems to me so great that the law could hardly be put into operation too soon.

MR. JAMES
PAGET'S EVIDENCE.

685. But at the same time, if the evil is so great, and the remedy so desirable, it would be very essential, would it not, not to shock public opinion in such a way as to run any risk of opposition being raised to it?—Yes; I submit that that is a question of policy.

POLICY OF EX-
TENSION.

686. In your opinion it is a question how far it may be discreet to extend the Act?—Yes.

687. You would extend it as far as discretion would admit?—Yes, and as quickly.

697. But you think that the extent of the disorder has not been overstated?—No; my conviction rather would be that as enquiries are continued, we shall find its range wider and wider in the diseases which at present we do not consider to be syphilitic. It is only within the last twenty years or so that we have had any clear knowledge that syphilis attacks the internal organs. We now know that certain diseases of the lungs, the liver, and the spleen are all of syphilitic origin, and diseases of the brain and of the spinal marrow we now trace to syphilitic origin, and the mortality from syphilis in its later forms is every year found to be larger and larger by its being found to be the source of a number of diseases which previously were referred to other origins or to accidents, or which were put down under various heads that they did not belong to.

EXTENT OF
DISEASE.

APPENDIX.	EMPLOYMENT OF METROPOLITAN POLICE AND MODES
LORDS' SELECT	OF EXTENDING THE AREA FOR THE OPERATION
COMMITTEE OF	OF THE ACT.
1868.	

MR. WOOL-
COMBE'S EVI-
DENCE.

Mr. THOMAS WOOLCOMBE, *Chairman of the Committee of the Royal Hospital, Devonport.*

METRO-
POLITAN
POLICE.

538. What, in your idea, is the most judicious way of extending the Act?—I have a very strong opinion upon that point. With regard to the gentlemen who are taking up the matter of extension in London, the society to which I have the honour to belong, I have no doubt that, theoretically speaking, there is a great deal to be said in favour of their views; but, looking at the subject from a practical point of view, my belief is that it would be a disastrous thing indeed if the Act were at once extended to inland towns as a rule, or even seaport towns as a rule. And the reason why I come to that conclusion is this: after a long experience of municipal bodies, of watch committees and local police, I have been satisfied that they are not the bodies who should be entrusted with the administration of an Act in which one single false step may undo the work of years. We have much to learn and much prejudice to remove, and my theory upon the matter would be this: instead of getting a legislative enactment, naming certain places in the kingdom to which this Act should be extended, I would apply the principle which is now being rather extensively adopted, of giving the Board of Trade power, on a representation and proper evidence, to make an order in council applying the Act to certain specified places, which might be considered desirable, or of extending its operations when already applied. If that were done, I believe that there would always be a sufficient amount of inquiry before any step was taken to justify an order in council being made—I believe that the greatest possible benefits would result. But, there, I think, it must be accompanied with another safeguard. I should be very sorry to see the Act extended into any district whatever, for some time to come, unless it were under the entire supervision of the

metropolitan police, and I come to that conclusion for this reason—the working of the Act, if it is to be a success, must be uniform; you must have the same principles and the same control applied in all districts. As far as my observation has gone of the way in which the metropolitan police have worked this Act so far, I think nothing could be better. They have the means of getting their own returns all made upon the same system; so that, by-and-bye, when you apply an examination to the statistics, you will not have one rule in one place, and another rule in another place. And, therefore, I should say that those two things ought to go together; first of all, that there should be no general legislation, but that there should be power given to some proper authority, on inquiry, to extend the provisions of the Act by an order in council; and next, that whenever that extension is made, the services of the metropolitan police should be brought in, so that the whole thing may be worked under one head and one system.

APPENDIX.
LORDS' SELECT
COMMITTEE OF
1868.
MR. WOOL-
COMBE'S EVI-
DENCE.

541. It has been suggested to this Committee that it would be wise to have an application submitted to the government from towns where they would be willing to construct an hospital, and on their undertaking the expense of the hospital, the government might sanction the town being included in the schedule of the Act; in that case no necessity for taxation would be involved, but it would be a voluntary offer on the part of the town, and it is believed that Liverpool and other wealthy towns might perhaps undertake the introduction of the Act in that manner; would not that be, in your opinion, a desirable way of extending the operation of the Act in the first instance?—I should be very sceptical myself, except in such cases as Liverpool, where I daresay the thing might be done, but I do not think you would find generally speaking, that ordinary municipalities would ever consent to tax themselves for a purpose of this kind; what I fear is, that, under any proposal for general extension, the arguments which were set up originally against the Act would revive in tenfold force. It was said that the Act was of a most immoral character; that you were, in fact, curing women for the supply of the army and navy. I can very

POSSIBILITY
AND MODES OF
EXTENSION.

APPENDIX.
LORDS' SELECT
COMMITTEE
OF 1868.

well understand that the taxpayers in a municipality would say, why should we tax ourselves for the purpose of putting down a disease which some people say is a just punishment for particular offences.

MR. FREDERICK CARPENTER SKEY, F.R.S.

MR. SKEY ON
EXTENSION.

609. What would be your idea of extending the Act still further?—I think that it would be a desideratum that every town in England where prostitutes congregate should have a lock hospital, but I do not know that the country is prepared for so large a movement. I think the association, which your lordship may be aware exists, has in some degree a little overcharged the horrors of the disease, and I consider they have made the most of it; I think it has spread alarm to an unnecessary extent in the minds of the public.

INCLUSION OF VARIOUS CLASSES OF WOMEN AND GENERAL EXTENSION OF THE SYSTEM.

MR. WYATT
ON EXTENSION.

MR. JOHN WYATT, *Surgeon-Major of the Coldstream Guards.*

727. As far as regards the garrison, would you consider London also to be a place which it would be desirable to put under the operation of Act?—I think that in certain parts of London it would be very desirable. The Tower and Westminster, for instance. I must say that personally I am very much opposed to the establishment of lock hospitals, except for garrison towns.

728. Upon what ground?—I think that in a proposed legislative enactment of this kind, it is important to consider the class of prostitutes who circulate the disease. I think that the lower class of prostitutes, such as are found in the streets in garrison towns, would have no difficulty whatever in going to lock hospitals, or any other hospitals; but according to my experience, there are a class of women who would not go to lock hospitals, as dressmakers and milliners, who carry the disease about them for a very long time, and who do not very often know that they have the disease. It was only last year that I had occasion to see a very respectable

girl in Pimlico who had infected several people, and she, except knowing that she was suffering from pain (pain being the only symptom for which they will come for advice) had the disease upon her for some weeks without being aware of it, and may have communicated it to a variety of individuals.

APPENDIX.
LORDS' SELECT
COMMITTEE OF
1868.
MR. WYATT'S
EVIDENCE.

729. Are there many women prostitutes who carry on other trades than that of prostitution?—Yes; many milliners and dressmakers, and others, who have occupations during the day; of course it is a matter of pecuniary consideration with them; they cannot very well abstain from their avocations in order to undergo treatment at an hospital.

730. Do you think that there is a very great amount of disease amongst that class?—Yes; my experience, and it is the same as regards the disease in France, is that, as a rule, they are the people who disseminate much disease; and another thing, I consider that in Paris, although there are venereal hospitals, you do not observe one half of syphilis in its constitutional form, or to anything like the same extent in those hospitals that you do in others. Those women would not go to lock hospitals in this country, but they would go to general hospitals if it were known that there were wards attached to them where they could be received.

CAPTAIN W. C. HARRIS, *Assistant Commissioner of the Metropolitan Police.*

CAPTAIN
HARRIS'S
EVIDENCE.

794. Do not you think that it would be difficult to frame any Act by which a line could be drawn as to women above the class of common prostitutes?—I do not think myself there is the slightest difficulty whatever in that.

795. In what way would you propose that it should be drawn? I am speaking of the class of women who is above solicitation in the street, who come above the class of common prostitutes, and yet is known to carry on this intercourse with men; where would you draw the line?—Speaking of London, I should propose that any woman who goes to places of public resort, and is known to go with different men, although not a street-walker, should be served with a notice to register.

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COMMITTEE OF
1868.
CAPTAIN
HARRIS'S EVIDENCE.

796. Is there anything that you could take notice of beyond that fact of a woman going to public places, and going with men from those public places; you could not draw the line, so as to inquire into people's character, to know whether they had connexion with men or not, could you?—It would be soon known to the police; every woman has a place of resort, and I think the police could find out any woman's history in London, if they chose.

797. Do not you think that it would be difficult to draw the line in an Act?—I do not consider that necessary; I think that every common prostitute should be registered, and a day named for medical examination. It would be desirable to classify, as far as possible, the women for this purpose, a certain day in the week being set apart, upon which medical examinations would be made by payment; this would enable the better class of women to classify themselves, and would partly defray the expenses of putting the Act into operation. Great discretion, however, is necessary in carrying out an Act such as that contemplated.

HOW THE
POLICE OBTAIN
INFORMATION.

798. Do you know whether the police employed in carrying out this Act obtain their information from the prostitutes themselves or from the men?—I think they obtain information from the men; but I do not consider you can in every case rely upon it. It is difficult for a man to say that he got the disease from any particular woman.

799. Do you think it would be difficult, from the information they possess, for policemen to find out from prostitutes whether any prostitute among them is diseased?—I think that they might readily find it out from the women; the women would tell upon one another.

834. And certain precautions for secrecy for those who so paid would be also valuable, perhaps?—Yes, I think that is very necessary. I think a great number of these people, who are the victims of the quacks of the profession would be very glad to get into hospital.

835. As I understood you, you would extend the operation of the Act to the large towns?—Yes, giving the small towns to the counties.

MR. W. S. FRENCH, M.D., *Medical Officer of Health for Liverpool.* APPENDIX.

852. You have spoken of Liverpool especially, but I should like to know your opinion as to the extension of this Act to any other part of the United Kingdom?—My own feeling is that to be of any use it should be general.

LORDS' SELECT
COMMITTEE
FOR 1868.
MR. FRENCH'S
EVIDENCE.

853. Applying to all classes ; to the civil population as well as the naval and military?—Yes ; and that while you make it compulsory, you should have grades, and allow the women to go into different wards, if you have different wards, according to the *status* of the women, on a fixed payment for that accommodation. I think you must separate the better class from the commoner, otherwise you break down every feeling of self-respect ; if you bring what are called the better class of prostitutes amongst the common prostitutes of the town, morally you do an incalculable harm to the former.

MR. W. ACTON, M.R.C.S.

960. I believe that you are not in favour of the introduction of the licensing and certificate system into England?—That has so many objections that I am not in favour of it.

MR. ACTON'S
EVIDENCE.

961. Will you state some of them?—The great difficulty I have had to encounter in the elucidations and discussion of prostitution has been the religious question. One of the objections which was raised against the remedies proposed in my paper, read at the Royal and Medical Chirurgical Society, was the following : Mr. Solley (who is one of the Council of the College of Surgeons) is reported in the *Lancet* to have said, “far from considering syphilis an evil, he regarded it, on the contrary, as a blessing, and believed that it was inflicted by the Almighty to act as a restraint upon the indulgence of evil passions. Could the disease be exterminated, which he hoped it could not, fornication would ride rampant through the land. He believed that Mr. Wells was right in saying that the best cure for the evil was the elevation of the moral character of society. Now, where evidence of a feeling of that kind is given, I am afraid we must be very careful how we run counter to the religious feeling of this country ; and I must say, having

RELIGIOUS
OBSTACLES.

APPENDIX. seen as much of that as I have, I think that the registration
 LORDS' SELECT of houses of that kind, would be fraught with the greatest
 COMMITTEE OF evils."

1868.

MR. ACTON'S 962. What is the date of that speech?—February 25th,
 EVIDENCE. 1860.

963. But, nevertheless, you would propose the extension of the Act that we have under consideration to the civil population?—Upon the sanitary question, I do not think there can be two opinions on the subject.

1027. You are aware that there is a class well known to the law already as common prostitutes independently of this Act, a class amenable to justice and certain police regulations. How would you bring into that class those women who you say do spread the disease, but are above that class, not common prostitutes, but occasionally having intercourse with men who become diseased. In what shape would you propose to bring those women under the authority of the Act, so as to render them liable to inspection?—I do not see how you can; the Continental police even have not succeeded.

1028. Can you suggest any mode or any regulation by which those women can become subject to inspection?—I think, at present, we shall have more than enough to do with what are known as common prostitutes?

1029. Is it desirable to extend the inspection in any way to a class above those known as common prostitutes?—No, I do not think so; the attempt might impede the success of the working of the Act.

1030. Not under any compulsory Act?—No.

MR. P.
 HEWETT'S
 EVIDENCE.

MR. P. HEWETT, F.R.C.S., *Senior Surgeon of St. George's Hospital.*

1148. That (the having one venereal ward in each hospital) would be with a view of making the Act apply to large communities in the country?—All over the country, if possible; if it could be done quietly, the more extended the Act the better it would be.

1151. Your opinion is rather in favour of the establishment of wards in hospitals?—Yes; and under the veil of a general hospital, and not being lock hospitals.

DISCUSSION IN THE HOUSE OF LORDS.

On Friday, May 15, 1868, the following discussion took place in the House of Lords :—

APPENDIX.

DISCUSSION
IN HOUSE OF
LORDS, MAY
15TH, 1868.
VISCOUNT
LIFFORD'S
SPEECH.

VISCOUNT LIFFORD, in rising to call the attention of the House to the operation of the Contagious Diseases Act, 1866, and to ask whether it is the intention of Her Majesty's Government to extend it to London, and to make it more effective by increasing the hospital accommodation, said that the necessity for this Act at the time of its introduction, a few years since, was very great. The health of the army and the navy had greatly suffered from the ravages of contagious diseases, and the returns had shown that an exceedingly large percentage of the men were continually under treatment. The following passage, taken from the work of a gentleman who had been appointed to inquire into the subject, would show how deteriorating the effects of these diseases had been on the army and navy :—

“ Prior to 1862, out of 44,611 men on an average of seven years in the army, there were each year 8032 cases of syphilis, or 181 laid up for every 1000 effective. In the navy the proportion was 143 to 1000. In 1862 to 1863 there were annually more than 300 laid up to 1000 effective. In 1865 in 73,000 there were 68,000 admissions to hospital for all diseases, 20,000 being cases of syphilis. In the French army, at about the same time, the venereal cases numbered only 40 to every 1000 effective.”

EFFECTS OF
DISEASE ON
ARMY AND
NAVY.

The provisions of the Act wherever they had been carried out had been the means of doing much good, but from all quarters came the same complaint of the insufficiency of the hospital accommodation. At Aldershot, for instance, in consequence of the absence of sufficient hospital accommodation only the worst cases could be taken. But at Aldershot, as well as at Woolwich, there had been a great decrease in the number and intensity of the cases since the Act had been in operation. From all the stations where the Act had been tried came similar reports. A return which had been made

APPENDIX. of the two years 1865 and 1868 showed that the decrease
 DISCUSSION IN was represented by the following figures: in the former
 HOUSE OF case the annual ratio per 1000 of mean strength of troops
 LORDS ON admitted into hospital, and in the latter the calculation being
 MAY 15TH, carried on at the annual ratio to the March quarter:—Wool-
 1868. wick, 204,150; Aldershot, 302,207; Chatham, 292,230;
 Portsmouth, 329,260; and Devonport, 360 and 110. But
 Sheerness was the only place where its provisions had been
 properly carried out, because here and here alone, was there
 sufficient hospital accommodation. The result was that in
 July last, out of 152 soldiers and sailors, only three men
 were suffering from disease. Sir Henry Storks, while
 Governor of the Ionian Islands, had made some stringent
 regulations, the effect of which was that these diseases might
 be said to have disappeared from the islands. The noble
 lord then read at length extracts from publications in relation
 to this subject, and concluded by saying that he believed
 that it was the imperative duty of the Government to adopt
 a system to counteract such a fearful state of things, similar
 to that which existed in most Continental states. Such a
 course of proceeding might, no doubt, be attended with
 expense, but he could not believe it possible that a country
 which had already voted millions for the Houses of Parlia-
 ment, for hospitals, and homes for the sick and the poor,
 would grudge the expenditure of a few thousands in order
 effectually to check the ravages of this awful plague, and to
 remedy this great blot upon the character of a Christian
 nation. He felt grateful to their lordships for the patient
 and kind hearing they had given him on this somewhat deli-
 cate subject, and he trusted the Government would take up
 the subject. If they did not, a bill relating to it would next
 year be introduced either into that or the other House of
 Parliament. He begged to ask the noble duke whether it is
 the intention of Her Majesty's Government to extend the
 operation of the Act of 1866 to London, and to make it
 more effective by increasing the hospital accommodation?

VISCOUNT
 TEMPLETON.

VISCOUNT TEMPLETON begged to state that a few days ago
 he had communicated with a friend at Devonport, who had

an intimate knowledge of the operation of the Contagious Diseases Act; and he had received from him a variety of statistics, from which it appeared that its operation as regarded the army had been most beneficial, and the amount of disease, which three years ago was upwards of two per cent., had been reduced to one-half per cent.

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DISCUSSION
IN HOUSE OF
LORDS, MAY
15TH, 1868.

The DUKE OF MARLBOROUGH said, he was sure their lordships would be ready to admit the very judicious manner in which his noble friend (Viscount Lifford) had brought forward and treated this most delicate and difficult matter. It was one of great importance as well as difficulty; but he had not been able to discover from his remarks whether his noble friend intended that the Contagious Diseases Act should be extended only to the military and naval establishments in the metropolis, or to the civil population generally. [VIS-COUNT LIFFORD said he desired the Act to be applied to the civil population.] The operation of the Act in a military point of view had been extremely beneficial. It was passed in 1866, and had reference solely to military and naval stations; but the metropolis was not considered a military station to which the Act could be applied. His noble friend asked, it appeared, whether it was in contemplation by Her Majesty's Government to extend the Act to the civil population of the metropolis generally? Now, he must answer the question by saying that they had no intention to undertake so large and onerous a duty. In a military point of view, he repeated, the greatest advantages had resulted from the operation of the Act. It was only that day he observed a paragraph in one of the morning papers containing a number of facts which seemed favourable to his noble friend's views, and which showed that in several of the naval and military stations the per centage of disease had already been very considerably reduced. But when they came to consider the practicability of applying the provisions of the Act to the civil population generally, they were met by very great difficulties. The greatest difficulty was the expense attending such a measure. His noble friend behind him, the Under Secretary of State for War (the Earl of Longford), had informed

DUKE OF
MARL-
BOROUGH'S
SPEECH.

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DISCUSSION
IN HOUSE OF
LORDS, MAY
15TH, 1868.

DUKE OF
MARLBOROUGH'S
SPEECH.

him that so far as the War Department was concerned, the expense incurred was £15,000 a-year. That expense was, beyond question, very profitably incurred. No doubt it was, in an economical point of view, the interest of the public that the health of soldiers and sailors should be preserved, and it was most proper that the State should incur a certain amount of expenditure with that view. Although he was free to admit that there were very high and important moral considerations involved in the treatment of this subject, he thought that Parliament could hardly be legitimately called upon to deal with them. They must be left to private benevolence and religious principle. Parliament would, no doubt, be justified in dealing with the question from a physical point of view, and if it could be shown that disease of a contagious and dangerous character was at work among a large portion of the population, it might properly step in and appropriate a certain sum of money for the purpose of arresting the progress of the disease. But he did not think that, under present circumstances, the expenditure which was clearly justifiable in the cases of the army and navy would be equally justifiable if applied to the civil population. Some idea of the expense that would thus be incurred might be arrived at from the estimate that, in London alone, if the Act were extended to the metropolis, about 500 beds would be required, at an expense of £25,000 a-year; and if the Act were extended to other large towns, it was easy to conceive what a large expenditure would be involved. He believed that the noble lord had not mis-stated the serious consequences of these diseases becoming ingrained among the population; but it was a well-known fact in medical experience that all the forms of the disease were not productive of the tremendous consequences which had been adverted to. However, in order to reach the most virulent kinds of the disease, it would be necessary to take under supervision a vast amount of other forms of the disease which were not attended with such serious consequences. This circumstance constitutes one of the difficulties in considering how far the Act might be applied to the civil community; and he could not at present hold out any hope that it was the intention of

the Government to ask Parliament to place the large expenditure which would be required to extend the Act to the civil community, on the Consolidated Fund. At the same time, he thought that the working of the Act had not been sufficiently brought before the public. Its benefits were very great, and it was most desirable that more information should be diffused upon the subject. If the noble lord thought that the subject was of sufficient importance to demand further inquiry, and if he would move for a Select Committee to inquire into the operation of the Act, and how far it might be extended with benefit to the civil community, the Government would not oppose the granting of such a committee.

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DISCUSSION
IN HOUSE OF
LORDS, MAY
15TH, 1868.

THE DUKE OF SOMERSET said that anyone who had been connected with the administration of the navy or army must acknowledge the great importance of this subject. The evil had reached to an enormous height. A ship which came into Portsmouth harbour with her full complement of seamen, in two or three weeks would hardly be capable of putting to sea. Therefore, in 1864, the department of the Admiralty, after communicating with the War Office, undertook to bring in the first Contagious Diseases Act. No doubt the subject was one of great difficulty ; but all parties in the House of Commons concurred on supporting the measure, and the bill, after being carefully considered by a select committee, was passed. To carry into effect measures of this kind it was requisite that they should have the assistance of local authorities, and the late government would have made nothing of their Act had it not been for the exertions of officers and magistrates, and other benevolent persons, in Portsmouth and elsewhere. By their co-operation the hospitals were placed under judicious management, and through their instrumentality many unfortunate women were enabled to obtain employment elsewhere, and thus a very good moral agency was brought to bear in favour of the Act. The noble duke spoke of the difficulty of extending the operation of the Act beyond military and naval stations ; but, as the army and navy were dispersed in many other places, it would be most desirable to extend the Act, though it might be, perhaps, inconvenient to apply it to

DUKE OF
SOMERSET'S
SPEECH.

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IN HOUSE OF
LORDS, MAY
15TH, 1868.

DUKE OF
SOMERSET'S
SPEECH.

London, on account of the immense size of the metropolis. He saw no reason why the Act should not be extended to civilians. The noble duke spoke of the expense of applying the Act to London, and said it would amount to £25,000 ; but there could be no doubt if that sum could rid of the disease, the money might be raised to-morrow. The expense was not the difficulty ; but there were many conscientious persons who objected to any measures such as had been suggested being adopted, because they thought that persons should suffer the penalty of their own misconduct. He thought that if the Act were made to apply to the whole country at once, a feeling might be raised which would not be favourable to the gradual extension of the Act, and he would, therefore, suggest that it should, in the first instance, be extended to some large towns, such as Liverpool, for instance, and other places with which the army and navy were connected, and he did not see why Dublin should be excepted. Nothing, however, could be done without ample hospital accommodation, and he thought that if the government would give assistance by some small contribution, local bodies would undertake to carry the Act into operation. The matter had really become so serious that it was absolutely necessary to take some further steps of the same nature, as those which had succeeded so well at Portsmouth, Plymouth, and Sheerness. While the state was spending a great deal of money for the education of the people it should be borne in mind that nothing was more important than the health of the population, for very little could be effected in any way if that were not attended to. The consequences of this dreadful disease descended to the children, and the mischief it entailed was something too dreadful to relate, and he hoped that the government, without undertaking anything upon a large scale, would take measures to assist local bodies who would adopt the Act.

VISCOUNT LIFFORD said he would act on the suggestion of the noble duke, and, on a future day, move for a select committee upon the subject.

It is a significant proof of the obscurity in which the whole subject was involved, of its misleading implication with military, naval, and sanitary matters, and of the little attention it was capable of attracting, that, during the same evening (as appears from Hansard), Lord Shaftesbury, the Archbishop of Canterbury, the Bishop of London, and Lord Salisbury took a prominent part in a discussion on the reports of the Commission on Ritual, and yet, that in spite of the Duke of Marlborough's assertion, that there were very high and important moral considerations involved in the subject of Viscount Lifford's question, which he thought "parliament "could hardly legitimately be called upon to deal with," no member of the House took part in the discussion in the interests of public liberty, morality, or humanity.

APPENDIX.

HOUSE OF
LORDS, MAY
15TH, 1868.

On June 29, the Marquis Townshend introduced into the Lords' House a Bill for extending the operation of the Act of 1866 to the metropolis and to any corporate borough which chose to adopt it. The bill was subsequently withdrawn, but has been brought forward more than once since, and is interesting from the fact that it embodies a policy which, however much discredited, is constantly re-appearing and likely to re-appear.

THE MARQUIS
OF TOWNS-
HEND'S BILL
FOR EXTEN-
SION TO THE
METROPOLIS
AND CORPO-
RATE
BOROUGHS,
JUNE 29TH,
1868.

AN ACT TO AMEND THE CONTAGIOUS DISEASES ACT, 1866.

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, as follows :

1. This Act shall be construed with the Contagious Diseases Act, 1866 (in this Act referred to as the principal Act), and may be cited as the Contagious Diseases Act, 1866, Amendment Act, 1868 ; but nothing in this Act shall affect the operation of the principal Act in relation to the places to which the principal Act applies, or extend the operation of section five of the principal Act.

Construction
and short
title.

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MARQUIS OF
TOWNSHEND'S
BILL FOR
EXTENSION TO
METROPOLIS
AND COR-
PORATE
BOROUGH,
JUNE 29TH,
1868.

Extension to
metropolis.

2. The principal Act as varied by this Act shall extend to the metropolis as defined by the Metropolis Management Act, 1855 ; and in relation to the metropolis, sections six, seven, nine to fourteen (both inclusive), and eighteen of the principal Act shall be read and have effect as if throughout those sections the poor law board were named instead of the Admiralty and the Secretary of State for War, with power for the poor law board to appoint such number of visiting surgeons and assistants as they from time to time think requisite, but so that all persons appointed by them under this Act shall be officers employed by guardians in or about the medical relief of the poor or by managers of asylums under the Metropolitan Poor Act, 1867.

Adoption of
Act in cor-
porate towns.

3. From and after the first day of November, one thousand eight hundred and sixty-eight the principal Act may be adopted in corporate boroughs as defined by the Local Government Act, 1858, in the manner and subject to the provisions in and subject to which the last-mentioned Act may be therein adopted ; and in relation to each corporate borough adopting the principal Act, sections six to fourteen (both inclusive) and eighteen of the principal Act shall be read and have effect as if throughout those sections the mayor, aldermen, and burgesses of the borough acting by the council of the borough were named instead of the Admiralty and the Secretary of State for War.

Forms in
schedule to
principal Act.

4. The forms given in the second schedule to the principal Act, or forms to the like effect, may be used under this Act, with such variations and additions for the purposes of this Act, as circumstances require, and instruments in those forms shall (as regards the form thereof) be valid and sufficient.

The other event of the year 1868 was the passing of a brief bill introduced by Sir John Pakington for explaining the term "superintendent" in the second section of the Act of 1866 in reference to Ireland. The enacting clause of this amending Act (the 31 & 32 Vict. c. 80) is as follows :

“In the application of the provisions of the Contagious
 “Diseases Act, 1866, to Ireland, the term “superintendent”
 “mentioned in the second section of the said Act shall in-
 “clude head constable or any other constable duly authorised
 “by the inspector general of the royal constabulary acting
 “under the statutes for the time being in force relating to the
 “royal constabulary force in Ireland to carry into effect the
 “provisions of the said Act.
 “This Act shall be read and construed as part of the said
 “Act.”

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BILL FOR
 EXTENSION TO
 METROPOLIS
 AND COR-
 PORATE
 BOROUGHES,
 JUNE 29TH,
 1868.

PROCEEDINGS IN 1869.

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HOUSE OF
LORDS,
FEBRUARY
25TH, 1869.

On the 25th of February, in the House of Lords—

VISCOUNT LIFFORD asked “Whether it was the intention “of the government to propose the extension of the Contagious “Diseases Act, 1866.” He hoped they would have the courage to apply the Act to the city of London.

The EARL OF MORLEY replied that the subject had been under the consideration of the Home Office, and that a bill would shortly be introduced, based on the recommendations of the select committee which enquired into the subject last year.

HOUSE OF
COMMONS,
FEBRUARY
25TH.

On the same evening, the 25th of February, in the House of Commons—

MR. MITFORD said he would beg to ask the first lord of the treasury if her Majesty’s government will propose to parliament any extension of the “Contagious Diseases Act, 1866,” to places not mentioned in the first schedule of the Act?

MR. GLADSTONE said that government had under their consideration the course to be taken with respect to that Act, and would, in a short time, state the conclusion at which they had arrived.

HOUSE OF
COMMONS,
MAY 13TH.

On May the 13th, in the House of Commons—

MR. BRUCE, in moving for a Select Committee to inquire into the working of the Contagious Diseases Act, 1866, and to consider whether, and how far, and under what conditions, it may be expedient to extend its operations, said the Lords’ Committee had recommended that the Act should be extended to eleven more military stations, and several towns had applied to have the Act extended to those localities. The

government thought the principle of the bill should not be extended without consideration, and they, therefore, proposed that the measure should be submitted to the consideration of a Committee.

APPENDIX.

HOUSE OF
COMMONS,
MAY 13TH,
1869.

MR. MITFORD said, that on the 25th of February, the government were asked in the other House, what were the intentions of the government on the question, and that the reply was that the government would bring in a bill. Relying on this, those opposed to the measure took no action, and now, on the eve of Whitsuntide, the House was adjourning, and no committee could sit till the month of June. The government should, at least, have taken some notice of a memorial signed by physicians and doctors, and endorsed by the heads of colleges at Oxford and Cambridge and the Vice-Chancellors of the Universities.

COLONEL NORTH also expressed a hope that the government would proceed earnestly in the matter, which was of the deepest importance to the troops, if not to the community generally.

Motion agreed to.

On June 8, the committee was nominated as follows:—
Mr. Childers, Sir John Pakington, Captain Vivian, Marquess of Hamilton, Mr. Donald Dalrymple, Mr. Percy Wyndham, Mr. Kinnaird, Mr. Collins, Sir John Simon, Mr. James Lowther, Mr. Rathbone, Lord Eustace Cecil, Lord Charles Bruce, Sir James Elphinstone, Mr. Murphy, Mr. Tipping, Dr. Brewer, Mr. Mill, Captain Grosvenor, Sir John Trelawny, and Mr. Mitford. Power to send for persons, papers, and records. Five to be the quorum.

HOUSE OF
COMMONS'
SELECT COM-
MITTEE, JUNE
8TH, 1869.

The report of the Committee was ordered to be printed by the House on the 8th of July.

The following extracts from the evidence presented before this Select Committee of the Commons are here appended and selected for the same reasons that similar extracts were given above from the evidence before the Lords' Committee of 1868 (see page 454).

The evidence in both cases is the best or only explanation of the connection between the Act of 1869 and the Act of 1866.

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HOUSE OF
COMMONS,
SELECT COM-
MITTEE OF
1869.

SELECTIONS FROM EVIDENCE PRODUCED BE-
FORE THE SELECT COMMITTEE OF THE HOUSE
OF COMMONS IN 1869.

EMPLOYMENT OF METROPOLITAN POLICE AND MODES OF
EXTENDING THE AREA FOR THE OPERATION OF THE LAW.

MR. SLOG-
GETT'S
EVIDENCE.

USE OF ME-
TROPOLITAN
POLICE.

MR. W. H. SLOGGETT, M.R.C.S., *Inspector of Certified Hospitals.*

122. Do you find, practically, that an examination once a fortnight is sufficient?—I think that if we were to make it more frequent than that, the women would rebel.

184. The Act at present has been worked entirely by the Metropolitan police, has it not?—Yes.

185. Neither the borough police nor the rural police have anything at all to do with it?—Nothing at all.

186. Do you apprehend that any difficulty would arise supposing that the Act was so extended as to bring it under the borough or rural police?—I do. I think the Act will always work better if it is left in the hands of the Metropolitan police.

187. To what extent in distance does the power of the Metropolitan police go round Plymouth under the Contagious Diseases Acts?—Five miles.

188. But under another Act they have power for a radius of 15 miles, have they not?—They have power under the Metropolitan Police Act for a radius of 15 miles round any garrison, arsenal, battery, or government establishment.

189. Then how would you propose that the area of this Act should be extended?—I would make the area of the Contagious Diseases Act conterminous with the area of the Metropolitan Police Act.

190. As I understand your explanation, does not that power of 15 miles apply to Plymouth as being one of the arsenals?—Not for the purposes of the Contagious Diseases Act.

191. Will you illustrate the effect of that proposal in the west country generally?—By means of this proposal almost the whole of Cornwall could be brought within the provisions of the Act. A radius of 15 miles from Devonport will take in Foy and East Loo; 15 miles from Falmouth will extend across the country; and I think there are some other batteries, somewhere near Foy, which would take in almost the whole of Cornwall.

APPENDIX.

HOUSE OF
COMMONS,
SELECT COM-
MITTEE OF
1869.

MR. SLOG-
GETT'S
EVIDENCE ON
EXTENSION OF
AREA.

209. Supposing that the Committee should consider that the difficulty of extending the Act to such a very large area as you propose would be too great, do you think that advantage would be derived from including those small villages outside Plymouth and Devonport which you just now mentioned?—Clearly; every additional place brought under the provisions of the Act is so much amount of disease taken away from the population; in fact, to make it clearer, every additional woman brought under examination is one possible centre of disease removed from the power of contaminating or infecting others.

DEFINITION OF PROSTITUTE AND INCLUSION OF VARIOUS CLASSES
OF CLANDESTINE PROSTITUTES AND OTHER WOMEN.

Mr. E. K. PARSONS, *Visiting Surgeon of the Portsmouth Lock Hospital.*

MR. PARSONS'
EVIDENCE.
DEFINITION OF
TERM "PROS-
TITUTE."

374. What is your definition of a prostitute?—Any woman whom there is fair and reasonable ground to believe is, first of all, going to places which are the resorts of prostitutes alone and at times when immoral persons only are usually out. It is more a question as to mannerism than anything else.

375. Must she be making her livelihood by it?—Yes, she ought to be; but, if you confine yourself to that definition, all I can tell you is, that your Act will never succeed. The amount of clandestine prostitution is very large. I think the definition here, of "common prostitute," is very objectionable, inasmuch as I have heard it stated, by those who wish to object to the Act, that you have no right to bring under the provisions of the Act what may be called

APPENDIX. the better class of prostitutes, who, they say, are not common prostitutes.

HOUSE OF
COMMONS,
SELECT COM-
MITTEE OF
1869.

MR. PARSONS,
EVIDENCE ON
MODES OF
INCLUDING
CLANDESTINE
PROSTITUTES.

376. Is there much disease among those women to whom you refer as clandestine prostitutes?—Yes; quite enough to neutralise any good effect from the Act. Unless your Act encompasses, or includes, every class of that sort, you cannot possibly hope to extirpate disease.

377. What is the proportion between the numbers of clandestine or partial prostitutes and the numbers of those who practise what may be called impartial prostitution, which would include the *inscrites* (as the French would call it), or registered prostitutes?—I should think, at a rough guess, half. I believe that, before the Act came into operation, the government applied to the Metropolitan police to supply them with some statistics as to the number of women. They went through all those large towns, Portsmouth, Plymouth, Devonport, and so on, and they endeavoured to find out from the brothel-keepers, and publicans, and others, the number of women gaining their livelihood by prostitution. I know very well that now that number is doubled; and I believe that the increase has arisen from the discovery of persons who are attempting clandestine prostitution, because the openly-avowed common prostitute is as well-known as anyone else.

378. What course have the police of Portsmouth taken with regard to that class of girls who perhaps are employed all day in milliners' shop, but who supplement their earnings by nightly prostitution?—The plan I believe adopted is this; that those four men whom I have mentioned are about the town, in those thoroughfares, and those parts of the town where those people generally congregate; and they become acquainted with their faces, and they see them associating with common prostitutes, and so give them notice to attend voluntarily for examination, or otherwise, they, the police, will lay an information before the magistrate upon that suspicion.

379. In point of fact, they have classed them as prostitutes for the purposes of this Act?—Yes.

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380. Would the words "plying for hire," be a satisfactory definition of prostitution?—I am afraid that that would not include all that I should like to see included; you want something including more than that.

381. What other definition could you give?—I think the Act says, "some fair and reasonable ground for believing."

382. It says here, "from information on oath laid before a justice by a superintendent of police." Does the information always come from the police?—Always.

383. Do they get information from the women themselves?—Yes; the police get a great deal of information from the women, It is a very common thing for a woman to say, "Well, I have no objection to come; I like coming up here. I am very willing to avail myself of the Act, but why does not so-and-so—naming a person who is carrying on clandestine prostitution—do so?"

399. Supposing that a woman is brought up by the police who is a modest woman, surely she would decline to sign that paper—the voluntary submission form—would she not?—No, for this reason; the police, believing the correctness of their own impression, say, "Very well, if you do not sign that, you go to the bench;" and then the woman says, in order to avoid that, "I do not mind going into a private room and speaking to Mr. Parsons," and she will sign the voluntary submission.

400. Therefore they sign a voluntary submission under the fear of being taken before the magistrate?—Unquestionably.

401. What proportion of those women cannot sign their own names?—A great number of them cannot.

DR. J. C. BARR, M.D., *Surgeon to Lock Hospital,* Aldershot.

HOUSE OF COMMONS,
SELECT COMMITTEE OF
1869.
MR. PARSONS'
EVIDENCE ON
THE ACTION OF
THE POLICE.

THE VOLUNTARY SUBMISSION.

DR. BARR'S
EVIDENCE.

600. With regard to the obstacles which present themselves to the complete success of the Act, is it not a fact that within the lines of the camp at Aldershot there are a certain

APPENDIX. number of unfortunate women who may be called non-professional prostitutes?—Most decidedly.

HOUSE OF
COMMONS,
SELECT COM-
MITTEE OF
1869.

DR. BARR'S
EVIDENCE ON
ACTION OF
POLICE.

601. Those women do not come, and cannot be brought, under the direct operation of the Act in its present state, can they?—In its present state they can only with great difficulty be brought under it; in fact, they are persuaded and brought by the tact of the police. If a woman is informed upon, the whole neighbourhood having already seen the good of the working of the Act, one will inform upon the other, so to speak. A policeman who gets information, makes himself sure that he has good foundation for what he does, reads the Act to the woman, makes her acquainted with it, and advises her to come up for examination at once, or on a stated occasion.

MR. SIMON'S
EVIDENCE.

POSSIBILITY
OF DEALING
WITH CLAN-
DESTINE
PROSTITUTES.

J. SIMON, Esq., F.R.S., *Medical Officer to the Privy Council.*

1299. There is one point upon which I should like to obtain an opinion from you, and that is with regard to the means of bringing under the operation of any Act clandestine prostitution. Can you suggest in any way any manner of getting at that large class of clandestine prostitution which prevails even in our military areas?—I should conceive it to be quite impossible; in the first place, think of the immense range of cases, where no one can draw the line, between mere sexual looseness and so-called "clandestine prostitution." The latter, from the nature of the case, I think, must elude anything like definite regulations.

1300. We mean in relation to disease?—But a woman may get disease the first time she indulges; there would be, I think, no possibility of dealing with clandestine prostitution. I believe, so far as I can judge from the Paris information on this subject, that what they call clandestine prostitution breaks down their system. They catch a number of specially flagrant unregistered prostitutes and bring them before the police, but the quantity which evades is enough to defeat them.

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1301. Therefore you think that to attempt to put an end to clandestine prostitution by legislation is simply impossible? —I suppose so; I look at it in this point of view. How are you to prove clandestine prostitution? Would those who propose such things take a woman on the mere ground of her having had sexual relations with more than one man, and put two and two together, and produce their evidence in a police court? It seems to me to be a thing which could not be done; the only kind of prostitution which can be dealt with, I suppose, is prostitution carried on by women who make it their calling, and live in gangs in brothels, or who publicly solicit men. I do not see any practical definition of prostitution which could include women wishing to practise clandestinely.

1302. If clandestine cases are known, or reputed or reported to produce disease, can you do nothing?—It is very unlikely, I suppose, that a woman will be in relations of that sort spreading disease, and yet be in any reasonable sense of the word a clandestine prostitute. I suppose that such a woman would be a fairly overt professional.

1305. Do you think that because you cannot easily reach clandestine prostitution, and the higher class of prostitutes, you are not to deal with the lower grades?—Certainly not; as I said, clandestine prostitutes may be of all grades. There is an immense range, and when you get towards the limit of avowed public prostitution, no doubt there are plenty of cases which an active police could get hold of, without making great blunders.

MODES OF DISMISSAL FROM REGISTER.

MR. E. K. PARSONS, *Visiting Surgeon of the Portsmouth Lock Hospital.*

MR. PARSONS'
EVIDENCE ON
MODES OF
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413. You have suggested that it would be advisable to give to the medical officer more power and greater responsibility as to releasing a woman whom he believed not to be a prostitute from examination; do you think that there would

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be any practical objection to giving a medical officer the same power of relieving from future examination a woman whom he believed to be reformed, and to be likely not to return to a life of prostitution?—No; those are the two points which I would suggest as being very desirable, in order to make the Act more popular with those people, and as doing away with the source of injured feelings.

414. You would see no harm in entrusting to the medical officer the power which is at present solely vested in the magistrates?—I cannot possibly see any harm, because the object of the medical officer would be to exercise the power as little as possible. The larger the number of persons under the Act, the greater the chance of success, and I cannot see that he could possibly do any harm.

MORAL EFFECTS OF THE ACT OF 1866.

DR. BARR'S
EVIDENCE ON
MORAL EF-
FECTS OF
RESIDENCE IN
HOSPITALS.

DR. J. C. BARR, M.D., *Surgeon to Lock Hospital, Aldershot.*

592. . . . Later on, I may say that I visited many other places within the district, and heard a great deal about those who practised clandestine prostitution. But I should also have stated to the Committee with regard to the present effect upon the prostitutes, that a residence in the hospital, in some cases, has an extraordinary effect. There was one house into which I went with the inspector of police lately. I heard a woman reading with a loud voice when we got in the passage. I stopped to listen, and I found, to my astonishment, that she was reading from Bunyan's 'Pilgrim's Progress.' I went into the room and found no less than seven women sitting round a good-looking female of twenty-five, who was reading from the 'Pilgrim's Progress,' all paying the greatest attention.

593. Was the woman reading it in a spirit which showed that she was feeling what she was reading?—Most decidedly. I never saw a clergyman or audience in a church look more serious than the reader or the listeners.

594. Were these prostitutes?—They were.

595. Were they engaged in the prosecution of their trade?—Most decidedly. I have, I am sorry to say, two or three of them in the hospital now.

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SELECT COM-
MITTEE, 1869.

On July 23, in the House of Lords—

Lord NORTHBROOK introduced a bill, founded on the joint reports of the Select Committees of the Lords and Commons, for the purpose of amending and extending the Act of 1866.

On July the 23rd the bill was read a first time.

„ „ „ 27th „ „ „ second time.

„ „ „ 29th „ „ „ referred to a Committee.

„ „ „ 30th the Committee reported.

On August the 2nd the bill was read a third time. On the same evening, August 2nd, it was read a first time in the Commons. On August the 5th it was read a second time, and the Committee reported on August the 6th. It was read a third time on August the 7th.

The bill received the Royal Assent on August the 11th.

On comparing the Acts (given on pp. 344 and 369) of 1866 and 1869 it will be found that the changes introduced by the latter Act are of the following kind :—

COMPARISON
OF ACTS OF
1866 AND
1869.

(1) A provision is made for retaining a woman who is unfit to be examined for a period not exceeding five days. (2) The limits of residence within which a woman becomes liable to the operation of the Act are fixed at within *ten* miles of the places mentioned in the schedule instead of *five* miles. (3) The effect of the voluntary submission is rendered exactly the same for all purposes whatsoever as that of an order of a Justice subjecting the woman to examination. (4) In the case of a woman detained in hospital for a longer time than three months, the whole period of possible detention must not exceed *nine* months instead of *six* months, as under the earlier Act. (5) The certificate of discharge from a hospital, or of freedom from contagious disease, provided for in the earlier Act, are to be delivered to the superintendant of police and retained by him. [It has been noticed that by the wording of the 30th section of the

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Act of 1866, the proof of the certificate is to lie on the woman. The later Act withdraws from her the possession of this proof without repealing the section of the Act of 1866 which calls for it at her hands.] (6) Relief from examination—that is, dismissal from the register—may be obtained from the surgeon in consultation with the superintendent of police, as well as from the Justice of the peace by means of a formal judicial process. (7) *Six* fresh places are added to those to which the Act applies, making in all *eighteen*.

Soon after the passing of this Act the public became acquainted with the existence and character of the legislation, and the history of the Parliamentary proceedings from that time is the history of an energetic movement for repeal.

On the 24th of May, 1870—

MR. FOWLER'S
REPEAL BILL,
1870.

MR. W. FOWLER (M.P. for Cambridge) introduced a bill for the total repeal of all the existing Acts, and it was defeated on the question of adjournment. A Royal Commission on the whole subject was appointed by the Government, which, after sitting for five months (from December 14th, 1870, to May 13th, 1871), and examining 84 witnesses, made the recommendations given below :—

RECOMMENDATIONS OF
ROYAL COM-
MISSION OF
1871.

RECOMMENDATIONS OF ROYAL COMMISSION
OF 1871.

1. That the periodical examination of the public women be discontinued.
2. That every common prostitute found to be diseased after an examination by a medical officer upon a voluntary submission, or upon a magistrate's order, shall be detained in a certified hospital until she is discharged by a magistrate's order, or by the authorities of such hospital; provided that such detention shall in no case exceed the period of three months.
3. That in order to obtain a conviction under 29 Vict. c. 35, s. 36 (the Act of 1866), it shall not be necessary to prove that the owner or occupier of the house therein named had reasonable cause to be-

lieve that the prostitute was affected with a contagious disease.

4. That 32 & 33 Vict. c. 96 (the Act of 1869), ss. 3, 4 and 5, be repealed.
5. That the Secretary of State for the Home Department be substituted for the Commissioners of the Admiralty and the Secretary of State for the War Department in the Act of 1866, and that the police employed in carrying the Acts into force perform their duty in uniform.
6. That the provisions contained in sections 11 to 21 inclusive of the repealed Act of 1864 (with an amendment of section 18 corresponding to the amendment proposed in section 36 of the Act of 1866) be extended to any place in the United Kingdom (except the cities of London and Westminster) from which a request for such extension shall be made, and in which proper hospital accommodation shall be provided.
7. That every keeper of a public-house harbouring prostitutes be deprived of his license.
8. That every keeper of a common lodging-house harbouring prostitutes be subject to the penal clauses of the Common Lodging Houses Acts.
9. That the certificate of Secretary of State under the 19 & 20 Vict. c. 69, s. 16 (the Police Counties and Boroughs Act), do certify that the third section of the Vagrant Act, 5 Geo. 4, c. 83, and the section of the Towns Police Clauses Act, 10 & 11 Vict. c. 89, relating to common prostitutes and night-walkers, have been duly observed.
10. That 24 & 25 Vict. c. 100 (the Act to consolidate and amend the statute law relating to offences against the person), ss. 51 and 52, be amended by extending the age from 12 to 14 years.
11. That girls under the age of 16 acting as common prostitutes be sent to a home or industrial school for a period not exceeding two years, if they cannot be otherwise provided for to the satisfaction of a magistrate.

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12. That the Acts be partially extended to the metropolis.

67. We have only to add in conclusion, that to the amendment of the law above recommended the title of the Act of 1866 would not be applicable. We do not recommend legislation merely "for the better prevention of contagious diseases at certain naval and military stations." We do not recommend special legislation for the purpose of protecting from the consequences of vicious indulgence any class of Your Majesty's servants. But we think that for the public good, particular districts which are, from any cause, peculiarly liable to contagious disease should be subjected to special sanitary regulations. We therefore approve of the establishment of hospitals at the public charge, and of police regulations enforced under central authority within such districts. Having regard, however, to the general prevalence of the disease, and to its effect on the health and happiness of the innocent as well as the guilty, we are of opinion that such regulations should form part of a general measure comprising various amendments of the law. The measure which we recommend includes provisions, which, if adopted and strictly maintained, would, we believe, contribute largely to the prevention of the disease, but would be very inaccurately described by the title of the existing Act.

All of which we humbly submit to Your Majesty for Your Majesty's gracious consideration.

W. N. MASSEY.

HARDINGE.

HARVEY CARLISLE.

JOHN S. PARKINGTON.

W. COWPER-TEMPLE.

J. SALUSBURY TRELAWNY.

WALTER C. JAMES.

R. COLLINSON.

C. BUXTON.

M. W. O'REILLY.

PETER RYLANDS.

ANTHONY JOHN MUNDELLA.

T. H. HUXLEY.

R. G. GREGORY.

J. F. D. MAURICE.

J. HANNAH.

SAMUEL WILKS.

J. H. BRIDGES.

G. E. PAGET.

T. HOLMES.

HOLMES COOTE.

G. W. HASTINGS.

R. APPLEGARTH.

The Commission as originally constituted included Lieut.- General the Right Honourable Jonathan Peel and George Campbell, Esq., who attended some of the earlier meetings of the Commission.

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We have been deprived of the assistance of the colleagues above mentioned in the progress of the inquiry, and in the preparation of the report.

General Peel, we regret to say, was prevented by illness from affording us his valuable aid.

Mr. Campbell, before the inquiry had proceeded beyond the preliminary meeting, was appointed Lieutenant-Governor of Bengal.

REASONS FOR DISSENTING FROM PARTS OF
THE REPORT PROPOSED BY THE CHAIRMAN.

REASONS OF
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We, the undersigned members of the Commission, have thought it our duty to sign this report, because we are of opinion that it contains a summary of the evidence for the most part just and accurate, and that it thus indicates the great advantages, both moral and physical, which have resulted from the operation of the existing Acts of 1866 and 1869.

2. We have been further induced to attach our names to the report by the consideration that although we think it is not in accordance with all the recommendations with which it concludes, and we feel compelled to record our dissent from an important part of those recommendations, we concur in the principle on which they are founded, viz., that legislation with the object of diminishing, if not eradicating, the terrible evil of venereal disease, ought to be maintained.

3. The part of the conclusions to the above report, from which we feel obliged to dissent, is the recommendation that the periodical examinations of common prostitutes should be altogether given up, and that the Act of 1864 should be practically re-enacted.

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4. We think the Act of 1864 is open to the serious objection, amongst others, that it gives discretionary powers to the police to lodge an information against any prostitute they "have good cause to believe" is diseased. This is a dangerous power. The police might in some instances be over zealous and active, in which case complaint and dissatisfaction would arise; or, probably, more often they would be so cautious and careful as to whom they would accuse, that little effect would be produced, and a great majority of cases of disease would escape detection.

5. We have been for these reasons irresistibly led to the conclusion that it is only under a system of periodical examination that either venereal disease can be speedily detected and effectively checked, or police be safely entrusted with duties which must be admitted to be, under the most favourable circumstances, of a difficult and delicate nature, requiring every safeguard which prudence can suggest.

6. We would first refer to the physical results obtained. We are aware that, from different causes, the statistics attached to the above report must be received with some degree of caution; and we are of opinion that the Act of 1866 had not been long enough in operation, even where first introduced, to admit of a fair judgment of its effects being formed.

7. But, after making all due allowance for these considerations, we feel justified in saying that every attempt to show that the physical results of the Act of 1864 were satisfactory and sufficient, or that they can be compared to those of the Acts of 1866-69, during their short period of action, have failed.

8. In confirmation of the principle involved in this proposition, nothing can be much stronger than the statement candidly and truly made in the above report.

"The medical witnesses experienced in the administration of the Acts are nearly all agreed that the periodical examination of the public women is essential to the system."

This is the view, it should be observed, of those medical witnesses who have had special opportunities and experience, and we cannot admit that the impressions or prejudices of those who have had no experience in the administration of the Acts are for a moment to be weighed against such evidence.

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9. But we find further confirmation in the summary of statistics clearly given in paragraph 35 of the report. We will still further condense that conclusive summary.

We pass over the sudden increase of disease, which arose naturally in the first year after the passing of each Act, and which was, of course, the result rather of increased detection than of increased disease.

10. We then find the statement given in the report to be in substance that, in Devonport and Plymouth, there were in the year before the first Act 274 cases in 2481 men.

In 1867, after three years of the Act of 1864, that number was reduced to 185; but in 1870, the first clear year of periodical examination, the number fell, for the same number of men, to 85. At Portsmouth, where, however, the original Act is said to have been partially and irregularly introduced, the decrease from 1864 to the end of 1868, when periodical examination commenced, was from 538 to 422, or about one-fifth, while in 1869 and 1870 (the strength being throughout the same) the numbers fell respectively to 289 and 232, or in round numbers one half! The figures given for Chatham, Sheerness, Woolwich and Aldershot show similar results, and the aggregate of 28 stations, at each of which the average strength amounted to not less than 500 men, the ratio per 1000 men of primary syphilis is stated to have been in 1865 120, and in 1870 only 54.

11. We now proceed to recapitulate the good moral effects which these calumniated Acts have produced, and which, in our opinion, far outweigh any moral objections which have been or can be alleged against them.

A. Religious and moral influence has been brought to

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bear upon large numbers of women, a great portion of whom had been from infancy familiar only with scenes of debauchery and vice.

- B. Towns and camps have been cleared, or nearly so, of the miserable creatures who were formerly to be found in their streets and thoroughfares.
- C. A considerable number of abandoned women have been reclaimed and restored to respectable life, and in many instances married.
- D. The number of loose women has been greatly reduced, and those who remain have been rendered more decent and decorous in appearance and conduct.
- E. The practice of clandestine prostitution, which too often degenerates into professional vice, has been materially checked by fear of the consequences of such indulgence which are rendered probable under these Acts.
- F. The sad spectacle of juvenile prostitutes of tender age, so rife in such localities heretofore, has been greatly diminished, in some instances almost removed.
- G. The temptations by which young men of all classes have been hitherto assailed, have been to a great extent taken out of their way, and morality has been thus promoted.

Such are some of the good effects, irrespective of the diminution of disease, which we are led to believe, by the evidence before us, have been obtained by these Acts, and probably many of those who conscientiously disapprove of the Acts have been unaware of the results brought to light by this inquiry.

We must here repeat the observation of our chairman in page 17 of the report: "If such results as we have described " have been attained either wholly or partially through the " operation of these Acts, those who demand their absolute " repeal are bound to show that they have produced evils

“to counterbalance the good, which, after all reasonable deductions have been made, may be fairly attributed to them.”

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12. When we turn to the probable moral effects upon the women themselves of the periodical examinations which are so much objected to, we must contend that any disadvantages which may have attended them are more than counterbalanced by their good moral and physical results.

13. It should also, we think, be borne in mind with respect to this, perhaps the most difficult part of the subject, that every woman who feels aggrieved by periodical examination, has it in her power to emancipate herself from such a consequence of her mode of life.

14. Entertaining these opinions, we cannot consent to make ourselves parties to a view of this most important question, which in our judgment falls short of the truth, the sound policy, and the necessity of the case.

We see no adequate reason why we should yield to a clamour which we do not believe to be well founded or deep seated, which we believe to have been for the most part artificially excited by means, the discreditable character of which has been stigmatized with just severity in the foregoing pages, and which we may reasonably hope will be silenced by the force of facts.

15. We are of opinion that the total repeal of these Acts would be, as was said by a Devonport witness, “disastrous.”

We object to attempting a compromise, which would probably be unsuccessful, by retreating on an imperfect measure, discredited by grave and obvious faults, and we desire to see the Acts of 1866 and 1869 maintained in substance and in principle.

16. We hold it to be consistent with these views that we wish to see the mode of administering these Acts in some respects corrected, such as the written notices given to women after examination, the public position of examining rooms, the manner of bringing women up for examination, &c., &c.

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Subject to such correction of details, we think the Acts should be gradually and cautiously extended, as circumstances may render possible and advisable.

17. We must, in conclusion, record our opinion that the beneficial effects of such legislation would be materially promoted by the establishment of a ministry of public health, as a distinct department of the State, as has been suggested in the Report of the Sanitary Commission.

JOHN S. PAKINGTON.
HARDINGE.
J. SALUSBURY TRELAWNY.
G. E. PAGET.
SAMUEL WILKS.
T. HOLMES.
G. W. HASTINGS.

FURTHER DISSENT BY MR. HOLMES.

I dissent also from clauses 62, 63, and 12 of 66, of the Report, for the following reasons :—

With regard to the proposed extension of the New Acts to portions of London (apart from the question of its being feasible in practice), I think that such an extension would be a re-affirmation of the principle denounced in clause 67 of the Report, viz., that the Acts were intended for soldiers and sailors only. This I believe was never the intention of the legislature. But even if it had been so in the past, it is the very thing which of all others most requires (in my opinion) alteration in the future, and such alteration would be retarded, and perhaps prevented, by so anomalous a measure as marking out the military districts of London from the civil, and placing prostitutes in the former under exceptional regulations. I trust ultimately to see a system for the mitigation of venereal disease in general use throughout the country. If this be thought undesirable or impossible, no partial scheme should be adopted.

For analogous reasons I dissent from the proposal to subsidise the hospitals in London for the purpose of maintaining semi-voluntary Lock wards, and for another reason also, viz., because I do not believe that a voluntary system of admission will at all tend to diminish the venereal disease. The present system of compulsory registration and compulsory examination (both which principles are common to all the Contagious Diseases Acts), has been proved to have had a very powerful effect in lessening the number of prostitutes (see clause 40 of the Report); and there is very plain proof that the disease also has thereby been lessened. This effect must be owing to the deterrent influence of the registration. But a system of subsidising voluntary hospitals provides fresh facilities for the practice of prostitution, and therefore can only tend to increase the number of prostitutes.

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Nor can I persuade myself that whilst it is so difficult to maintain hospitals for the deserving poor when suffering from unavoidable illness, it will be possible to obtain money out of the public funds for such hospitals as those proposed, unless some definite prospect can be shown of great public good to be expected from them.

T. HOLMES.

REASONS FOR DISSENTING FROM SOME OF THE RECOMMENDATIONS OF THE REPORT.

We have signed the Report with the reservation that our assent does not extend to those parts of it which recommend the revival of the compulsory powers of surgical examination and committal to hospitals which were contained in the Act of 1864.

The compulsory surgical examination of all common prostitutes suspected of being diseased, is not free from the objections which are recognised in the Report as valid against the periodical examination of all common prostitutes, whether diseased or not, and it is attended by an additional difficulty which does not affect the latter examination, viz. :—

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That the indications of the existence of these contagious diseases are not within the cognizance of the police or of the public, but must be sought from the testimony of accomplices or accessories, a source of information both objectionable and untrustworthy.

The objections we entertain against the modes that have been tried for compulsory admission to the hospital need not interfere with the duty of the State to support those hospitals with the view of diminishing disease in garrison districts and naval ports; nor do they interfere with other recommendations of the Report. Lock hospitals and Lock wards are voluntarily resorted to as other hospitals are, and it is certainly the real and permanent interest of persons of both sexes, who are afflicted with these diseases, to have recourse to medical treatment in hospitals during the early stages of their disorders.

W. COWPER-TEMPLE.
ANTHONY JOHN MUNDELLA.
J. F. D. MAURICE.
HOLMES COOTE.
R. APPELEGARTH.
PETER RYLANDS.

FURTHER REASONS FOR DISSENTING FROM PARTS OF THE REPORT PROPOSED BY THE CHAIRMAN.

We have thought it our duty to sign the Report because we entirely approve of the principal recommendation contained in it, viz., "that the periodical examination of the " public women be discontinued."

We also concur in the recommendations at the close of the Report, numbered respectively, 3, 4, 5, 7, 8, 9, 10, and 11.

But we strongly dissent from all portions of the Report in which the re-enactment of the provisions of the Act of 1864 is recommended.

We are unable to concur in the statement that “the most effectual mode of preventing the disease is the regular examination of the public women at short intervals;” because, whilst we do not question the general accuracy of the summary given of the effect of the evidence brought before the Commission, we think that important qualifications ought to have been stated in reference to the following facts :—

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1. As to the reduction in the number of prostitutes in the protected districts. We are of opinion that reliance cannot be placed upon the statement that the number of prostitutes in Devonport has been reduced since 1864 from 2621 to 557. This statement is contradicted by the evidence of the local police and other witnesses, and is not supported by the experience at Portsmouth, where it is generally acknowledged that the decrease in the number of registered prostitutes has been of a trifling character.
2. We think that sufficient prominence has not been given in the Report to the fact that throughout the country the reclamations of fallen women, arising from influences entirely apart from the Acts, are very numerous, and that within the protected districts such reclamations occur from similar causes, without in any way proving that the operation of the Acts has been mainly effectual in reducing the number of prostitutes.
3. We are of opinion that, in considering the effect of the Acts upon the army and navy, it is most important to observe that for several years prior to 1865 the prevalence of venereal disease had been materially diminished; in fact, that the proportionate decrease of disease had been greater between the years 1860 and 1865 than it has been during the subsequent five years. Valuable evidence was furnished to the Commission which demonstrated that in the regulations of the army

APPENDIX.

REASONS OF
DISSENT
FROM REPORT
OF ROYAL
COMMISSION
OF 1871.

and navy sanitary measures of an extensive character have been adopted since 1860, and that those measures, conjoined with the improved habits of soldiers and sailors, have necessarily led to a marked improvement in the health of the forces, entirely apart from the operation of the Contagious Diseases Acts.

PETER RYLANDS.
A. J. MUNDELLA.
R. APPLGARTH.
HOLMES COOTE.

Agreeing to all the recommendations contained in the Report except the last, I can assent to No. 2 only as a fair compromise under existing circumstances and as a mitigation of the moral evils of periodical examinations, and not as the permanent settlement of a great question.

All penal legislation upon the subject of the contagious diseases incident to prostitution seems to me productive of grave social injustice and immorality, likely also in the end to aggravate the grievous complaints which it is intended to cure. Diminishing the fear of contagion we have no certain proof that it reaches the contagion itself. With much of the reasoning which precedes the recommendations of the Report I am therefore unable to agree. I dissent from the censures conveyed in paragraphs 28 and 44, and from recommendation 12, extending the Act of 1864 (as intended to be amended) to certain parts of London.

I wish also to record a respectful protest against the obvious injustice of making the expense of these Acts avowedly limited and partial, a permanent charge upon the general resources of the country.

WALTER C. JAMES.

PROVISO BY MR. BUXTON.

Although I sign the Report, as agreeing with its main recommendation (namely, that the periodical examinations should be discontinued), I feel it my duty to express grave doubt whether it be possible to revert to the system of 1864.

APPENDIX.
PROVISO OF
MR. BUXTON
ADDED TO
REPORT OF
ROYAL COM-
MISSION OF
1871.

First, because the evidence of disease upon which, under that Act, the women are required to attend the hospital is, from the nature of the case, of a most unsatisfactory kind. The allegation that any prostitute is suffering from disease can only be derived either from a soldier, who professes that he caught his own disease from her, or else from the keeper of the brothel. Now, with respect to the soldier, it may be noticed that syphilis very often does not become apparent for five or six weeks, or often for a much longer period. It is almost impossible that he can look back so far with any certainty. Besides this he may not have been sober, or he may have had a very slight knowledge of the woman with whom he had consorted. In some cases he might wish to shield a girl to whom he was attached, and accordingly would lay the blame upon another, or he might be influenced by ill-will. With respect to the brothel keeper, it could not appear that she has any real means of judging whether any of the women that frequent her house are in a condition to convey disease. There is also some risk of increasing the arbitrary power over them which she already possesses.

Secondly, because the subjoined statistics show that the Act of 1864 did not produce any important effect in reducing the whole amount of venereal disease, at any rate in those first years of its application to which Dr. Balfour's tables refer.

The following tables were furnished, among others, by Dr. Balfour, the one to the Committee of the House of Commons in 1869, the other to the Commissioners.

C. BUXTON.

APPENDIX.
 DISSENT OF
 DR. BRIDGES
 FROM
 REPORT OF
 ROYAL COM-
 MISSION OF
 1871.

I sign the Report because I agree with most of its premises, and with clauses 1, 5, 7, 8, 9, 10, and 11 of its concluding recommendations. But the powers entrusted to the police by the Act of 1864 appear to me open to the gravest objections, and I cannot think that the proposal to extend the Acts to certain districts of the metropolis is either practicable or adequate. I should therefore prefer to see the three Acts of 1864, 1866, and 1869 repealed, and the requisite power given to the central sanitary authority in combination with the local authorities to institute proper means for the efficient treatment of the disease in every important centre of population where such means may not have been already provided.

J. H. BRIDGES.

MR. BRUCE'S
 BILL OF 1872.

The only action taken upon the Report of this Royal Commission was the bill given below, which was introduced in 1872, by Mr. Bruce, Secretary for the Home Department in Mr. Gladstone's Government. It found little support in any part of the house, on the grounds—among others—which have been given in a previous Chapter (see pp. 161, 162). It never reached a second reading.

A

B I L L

FOR

THE PREVENTION OF CERTAIN CONTAGIOUS DISEASES, AND FOR THE BETTER PROTECTION OF WOMEN.

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows :

Preliminary.

Short title.

1. This Act may be cited as the Contagious Diseases and Protection of Women Act, 1872.

PART I.

PROSTITUTION AND CONTAGIOUS DISEASE.

Indecent Conduct of Prostitutes.

2. Whereas by the Vagrant Act, 1824, it is provided that "every common prostitute wandering in the public streets or public highways, or in any place of public resort, and behaving in a riotous or indecent manner," shall be liable on conviction to be imprisoned as therein mentioned, and it is expedient to explain the said provision, and to extend the same to Ireland, be it enacted,—

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MR. BRUCE'S
BILL OF 1872.
Amendment
of 5 Geo. 4,
c. 83, s. 3, as
to indecent
conduct of
common
prostitutes.

Every common prostitute who in any public street, public highway, or place of public resort, solicits or importunes persons for the purpose of prostitution, shall be deemed to behave in an indecent manner within the meaning of the recited provision of the Vagrant Act, 1824.

The Vagrant Act, 1824, so far as it relates to the offence mentioned in this section shall, as explained by this section, extend to Ireland.

Detention of Prostitute in Hospital or Infirmary.

3. Where a woman is imprisoned in pursuance—

(1.) Of a conviction for any offence as a common prostitute, or,

(2.) Of a conviction for any offence by a court of summary jurisdiction, at the trial for which offence it is proved that she is a common prostitute ;

Treatment of
prostitute
summarily
convicted of
offence when
found in
prison to be
diseased.

and such woman is found, at the expiration of the term of her imprisonment to be affected by contagious disease, she shall be liable to be detained in the infirmary of the prison, or to be removed to a certified hospital, in manner provided by this Act.

Where a woman, so liable, is found within seven days before the expiration of the term of her imprisonment to be affected with contagious disease, the fact of her being so affected shall be reported by the gaoler of the prison to a

APPENDIX.
MR. BRUCE'S
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justice of the peace, and such justice, unless he is satisfied that she is not so affected, or that she intends to go to some asylum or other like institution, or otherwise to cease to be a common prostitute, shall order her to be detained in the infirmary of the prison for such period as is provided by this Act, and the woman shall be detained in such prison infirmary accordingly.

Where a woman is ordered under this section to be detained in the infirmary of the prison, a justice of the peace may, by the same or any subsequent order, direct her to be removed to any certified hospital, the managers of which are willing to receive her; and any person authorised in this behalf by such order may remove such woman to the certified hospital named in the order, and the woman may be detained in such hospital for such period as is provided by this Act.

Nothing in this section shall authorise an examination of a common prostitute in any prison further or other than may be made in the case of any other prisoner.

Due notice of the said report shall be given to the woman, and she shall, if she so desire, be heard by the justice before any order is made.

Discharge of
woman from
certified hos-
pital or
infirmary.

4. Every woman detained in a certified hospital or prison infirmary in pursuance of this Act shall be discharged therefrom as soon as the chief medical officer of such hospital or infirmary (as the case may be) certifies that her detention for medical treatment for contagious disease is no longer requisite, and in any case at the expiration of *nine months* from the expiration of the term of her imprisonment.

The chief medical officer shall, at the expiration of each month after the admission of a woman into hospital or infirmary in pursuance of an order under this Act, certify whether or not in his opinion the further detention of such woman for medical treatment for contagious disease is requisite, and shall transmit such certificate to the clerk of the justice by whom such woman was ordered to be detained; and as soon as, in his opinion, her further detention for medical treatment for contagious disease is not requisite he shall discharge such woman from the hospital or infirmary.

5. If any woman detained in any hospital or infirmary of a prison, in pursuance of this Act, considers herself entitled to be discharged therefrom, and the chief medical officer refuses to discharge her, such woman shall on her request be conveyed before a court of summary jurisdiction, who, if satisfied that she is free from contagious disease, shall make an order in a summary manner for her discharge from such hospital or infirmary, and she shall be discharged accordingly.

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MR. BRUCE'S
BILL OF 1872.
Power for
woman
detained to
apply to
justice for
discharge.
29 & 30 Vict.
c. 35, s. 25.

6. Where a justice of the peace is satisfied on the application of a woman who is detained in a hospital or prison infirmary in pursuance of this Act that the applicant intends to go to some asylum or other like institution, or otherwise to cease to be a common prostitute, such justice may, if he think fit, make an order in a summary manner for her discharge from the hospital or infirmary, and she shall be discharged accordingly.

Discharge of
woman on
going to
asylum, &c.

7. Every woman shall be discharged from the hospital, upon the written authority of the chief medical officer, or a justice of the peace, and upon her discharge, shall be sent, if she desires, to the place of her residence, or to an asylum or other like institution without expense to herself.

Removal of
woman on
discharge.

8. If any woman detained in a certified hospital in pursuance of this Act leave the same before she is duly discharged as provided by this Act, or refuses or wilfully neglects to conform to the regulations thereof made and approved as hereinafter provided, such woman may be arrested without warrant, and shall be liable, on summary conviction, to imprisonment, with or without hard labour, for a term not exceeding *one month*, and after the expiration of such term of imprisonment shall be liable to be further detained in the certified hospital.

Penalty for
escaping
from certified
hospital.
29 & 30 Vict.
c. 35, s. 28.

9. Any woman detained in a prison infirmary in pursuance of this Act shall be deemed to be a criminal prisoner before trial and conviction.

Detained
woman to be
prisoner.

10. The reception of a woman in a certified hospital by the managers thereof shall be deemed to be an undertaking

Expenses of
detention of
woman in

APPENDIX. by them to provide for her care, treatment, and maintenance during her detention in the hospital.

MR. BRUCE'S
BILL OF 1872. *The expenses of conveying a woman to and from a certified hospital shall be defrayed in the like manner as the expenses of maintaining such woman would be defrayed if she were detained in the prison to which she was committed on her conviction.*

Definition of
term of im-
prisonment. 11. Where a woman who is imprisoned in pursuance of a conviction by a court of summary jurisdiction is ordered or adjudged by any court whatever to be further imprisoned, the term of her imprisonment shall for the purposes of the provisions of this Act relating to a woman's detention in the infirmary of a prison, or removal to a certified hospital, be deemed to be the term for which she is so ordered or adjudged to be further imprisoned.

Remand of
woman to
another
certified
hospital.
29 & 30 Vict.
c. 35, s. 23. 12. The inspector of certified hospitals (appointed as hereinafter mentioned) may, if it seem to him expedient that any woman detained in a certified hospital for medical treatment should be removed from that hospital to another hospital, of which the managers are willing to receive her, make an order, signed by him, by virtue of which any constable may remove the woman to whom it relates from the hospital where she is detained to the hospital named in the order, and the woman may be detained in, and shall be discharged from, the hospital to which she is so removed in like manner in all respects as if it were the hospital to which she was removed from the prison infirmary.

Legal custody
of woman
during con-
veyance and
detention.
29 & 30 Vict.
c. 35, s. 26. 13. Every woman removed under this Act to or from a certified hospital shall, while being removed to or from the hospital, and while detained there, be deemed to be legally in the custody of the person removing or detaining her, notwithstanding that she is for that purpose removed out of the jurisdiction of the justice or authority who ordered her detention or removal into or through the jurisdiction of any other justice or authority.

Certified Hospitals.

14. A Secretary of State may from time to time, on such application or with such consent as to him seems requisite, and on the report of the inspector of certified hospitals, certify in writing any building or part of a building to be useful and efficient as a hospital for the purposes of this Act, and withdraw such certificate by a declaration in writing, and while a certificate remains in force the building or part of a building named therein shall be deemed a certified hospital under this Act.

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BILL OF 1872.

Power to
certify hos-
pitals.

15. Every certificate and every declaration of withdrawal of a certificate relative to any hospital under this Act shall be published in the London, Edinburgh, or Dublin Gazette, according as the hospital to which the certificate or declaration relates is in England, Scotland, or Ireland.

Gazetting of
certificate and
declaration of
withdrawal.

See 29 & 30
Vict. c. 35,
s. 13.

Every certificate proved to have been made shall be presumed to be in force until the withdrawal thereof is proved.

16. The persons having the control or management of each certified hospital (in this Act referred to as the managers) shall make regulations, not being inconsistent with the provisions of this Act, for the management and government of the hospital, as far as regards women authorised by this Act to be detained therein for medical treatment, and may from time to time alter any such regulations; but all such regulations, and all alterations thereof, shall be subject to the approval in writing of a Secretary of State.

Power to
make regula-
tions for
certified hos-
pitals.

See 29 & 30
Vict. c. 35,
s. 14.

17. A Secretary of State may from time to time appoint any fit persons to be the inspector or assistant inspectors of certified hospitals under this Act, and may assign them their duties, and may award them such salaries as the Commissioners of Her Majesty's Treasury may approve, and may remove such inspector and assistant inspectors.

Appointment
of inspector
and assistant
inspector of
certified hos-
pitals.

29 & 30 Vict.
c. 35, s. 7.

Every certified hospital shall be from time to time visited and inspected by the inspector or an assistant inspector of certified hospitals.

APPENDIX.
MR. BRUCE'S
BILL OF 1872.
Salaries and
expenses.

18. The salaries of the inspectors and assistant inspectors, and all expenses incurred by a Secretary of State in carrying into effect the provisions of this Act, *shall be paid out of moneys provided by Parliament.*

PART II.

PROTECTION OF WOMEN.

Penalty for
carnal know-
ledge of girl
under four-
teen.
See 24 & 25
Vict. c. 100,
ss. 50, 51.

19. A person shall not carnally know any girl under the age of fourteen years, whether with or without her consent, unless he is legally married to her.

Every person who offends against this section shall—

- (1.) If such girl is under the age of twelve years, be guilty of felony, and on conviction be liable to penal servitude for life, or for any term not less than the minimum term allowed by law, or to imprisonment for any term not exceeding *two years*, with or without hard labour; and,
- (2.) If such girl is above the age of twelve years, be guilty of a misdemeanour, and on conviction be liable to penal servitude for the minimum term allowed by law, or to imprisonment for any term not exceeding *two years*, with or without hard labour.

Every person who attempts to commit any offence against this section shall be guilty of a misdemeanour, and be liable on conviction to imprisonment for any term not exceeding *two years*, with or without hard labour.

Section sixty-three of the Act of the session of the twenty-fourth and twenty-fifth years of the reign of Her present Majesty, chapter one hundred, intituled “An Act to consolidate and amend the Statute Law of England and Ireland relating to offences against the person” (which relates to proof of carnal knowledge), shall apply to the proof of carnal knowledge upon a trial for any offence under this section.

20. Every person who commits any indecent assault upon any woman or girl of any age shall be guilty of a misdemeanour, and be liable on conviction to imprisonment for any term not exceeding *two years*, with or without hard labour. APPENDIX.
MR. BRUCE'S
BILL OF 1872.
Indecent
assault.
See 24 & 25
Vict. c. 100,
s. 52.
21. Every person who by false pretences, false representations, or other fraudulent means, procures any woman or girl to have illicit carnal connexion with any man, shall be guilty of a misdemeanor, and on conviction shall be liable to imprisonment for any term not exceeding *two years*, with or without hard labour. Procuring the
defilement
of woman
or girl.
See 24 & 25
Vict. c. 100,
s. 49.
22. If any person being the owner or occupier of any house, room, or place, or being the manager or assistant in the management thereof, induces or suffers any girl under sixteen years of age to resort to or be in that house, room, or place for the purpose of prostitution, he shall on summary conviction be liable to imprisonment, with or without hard labour, for a term not exceeding *six months*, or on conviction on indictment shall be guilty of a misdemeanour, and shall be liable to imprisonment for a term not exceeding *two years*, with or without hard labour. Penalty for
harbouring
girls under
sixteen for
the purpose of
prostitution.
- Provided that a conviction for an offence under this section shall not exempt the offender from any penal or other consequences to which he may be liable for keeping or being concerned in keeping a bawdy house or disorderly house, or for the nuisance thereby occasioned.
23. This part of this Act shall not extend to Scotland. Extent of
part of Act.

PART III.

DISORDERLY HOUSES.

24. A person who is a keeper of a bawdy house shall be liable on summary conviction to a penalty not exceeding twenty pounds, or, in the discretion of the court, to imprisonment for any term not exceeding six months, with or without hard labour : Penalty on
keeper of
bawdy house.
- Provided that—

APPENDIX.

MR. BRUCE'S
BILL OF 1872.

- (1.) No proceeding shall be instituted against any person under this section, except upon the information of the overseers of the parish in which such bawdy house is situate, or of a constable having jurisdiction in such parish :
- (2.) Nothing in this section shall exempt any person from any penal or other consequences for keeping or being concerned in keeping a bawdy house, or for the nuisance thereby occasioned.

Liabilities
and rights of
owner of
disorderly
house.

25. Where a house is a bawdy house or other disorderly house, the owner of such house may, by notice in writing, determine the tenancy of any tenant under lease or otherwise of such house, notwithstanding that the terms of the tenancy do not include an agreement to that effect ; and at the expiration of one month from the date of the service of such notice, the tenancy shall be determined, and the owner may re-enter ; and if the tenant, on such determination of the tenancy, refuse to yield up possession of the house, the owner may, in England and Ireland, in addition to any other remedy, recover possession of such house in manner provided by the Summary Ejectment Act, and any court of summary jurisdiction may cause possession of any such premises to be given in manner provided by that Act.

The owner of any house who knowingly allows such house to be kept as a bawdy house, or other disorderly house shall be liable to be prosecuted and punished as the keeper thereof.

The term "owner" in this section means the person for the time being receiving the rackrent of a house, either on his own account or as agent or trustee for any other person, or who would so receive the same if such house were let at a rackrent.

The term "Summary Ejectment Act" in this section means,—

As regards England, the Act of the session of the first and second years of the reign of her present Majesty, chapter seventy-four, intituled "An Act
" to facilitate the recovery and possession of tene-
" ments after due determination of the tenancy;"
and,

As regards Ireland, the provisions of the Summary Jurisdiction (Ireland) Act, 1851, relating to the recovery of the possession of small tenements.	<p>APPENDIX.</p> <hr/> <p>MR. BRUCE'S BILL OF 1872.</p>
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COMMON LODGING HOUSES.

26. If the keeper or other person having or acting in the care or management of a common lodging-house in any place knowingly permits such lodging-house to be the habitual resort of, or place of meeting for, reputed prostitutes, or otherwise knowingly allows such lodging-house to be used for the purposes of prostitution, he shall be liable, on summary conviction, to a penalty not exceeding twenty pounds, and also to be disqualified for such period, not exceeding five years, as the court may direct, for keeping, or having, or acting in the care or management of a common lodging-house in any place without the previous licence in writing of the local authority having power to regulate common lodging-houses in such place.

Penalty on common lodging-house keepers for permitting prostitution.

The term "common lodging-house" in this section means such premises in any place as constitute a common lodging-house within the meaning of the Acts for the time being in force in that place with reference to the inspection or regulation of common lodging-houses.

PART IV.

SUPPLEMENTAL.

Legal Proceedings.

27. All offences and penalties under this Act which may be prosecuted or recovered summarily or on summary conviction may be prosecuted and recovered in manner directed by the Summary Jurisdiction Acts before a court of summary jurisdiction.

Summary proceedings for offences, penalties, &c.

Any justice of the peace shall have jurisdiction to make any order authorised by this Act to be made by a justice of the peace, and all proceedings in relation to such order shall be conducted in like manner as near as may be as proceedings in the case of like orders within his jurisdiction.

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In Scotland a sheriff shall have and exercise the jurisdiction given by this Act to a justice of the peace; and this Act shall be construed as if "sheriff" were throughout this Act substituted, so far as regards Scotland, for a justice of the peace, with respect to all jurisdictions which may be exercised and things which may be done by a single justice of the peace.

The court of summary jurisdiction, when hearing and determining an information or complaint, shall be constituted—

- (a.) In England, either two or more justices of the peace in petty sessions sitting at a place appointed for holding petty sessions, or of some magistrate or officer for the time being empowered by law to do alone any act authorised to be done by more than one justice of the peace and sitting alone or with others at some court or other place appointed for the administration of justice ; or,
- (b.) In Scotland, of two or more justices of the peace sitting as judges in a justice of the peace court, or of the sheriff or some other magistrate or officer for the time being empowered by law to do alone any act authorised to be done by more than one justice of the peace, and sitting at some court or other place appointed for the administration of justice ; or,
- (c.) In Ireland, within the police district of Dublin metropolis, one of the divisional justices of that district sitting at a police court within the district, and elsewhere of a stipendiary magistrate sitting alone or with others, or of two or more justices of the peace sitting in petty sessions at a place appointed for holding petty sessions.

Summary
proceedings
for offences
in Scotland.

28. In Scotland the following provisions shall have effect :

- (1.) All jurisdictions, powers, and authorities necessary for the court of summary jurisdiction under this Act are hereby conferred on that court :

- (2.) All penalties imposed and recovered under this Act shall be paid to the clerk of the court of summary jurisdiction, who shall account for and pay the same to the Queen's and Lord Treasurer's Remembrancer on behalf of Her Majesty. APPENDIX.
MR. BRUCE'S
BILL OF 1872.

29. In every part of the United Kingdom the following provisions shall have effect :— General provisions as to
summary
proceedings.

- (1.) The description of any offence under this Act in the words of the Act, or in similar words, shall be sufficient in law :
- (2.) Any exception, exemption, proviso, excuse, or qualification, whether it does not accompany the description of the offence in this Act, may be proved by the defendant, but need not be specified or negatived in the information or complaint, and if so specified or negatived, no proof in relation to the matters so specified or negatived shall be required on the part of the informant :
- (3.) The room or place in which a court or justice sits to hear any application by a woman against an order for her detention or removal or for her discharge shall not, unless the woman so desires, be deemed an open court for that purpose ; and, unless the woman otherwise desires, the court or justice may, if it seem fit, order that no person have access to or be or remain in that room without the consent or permission of such court or justice :

30. In Ireland all penalties recovered under this Act shall be applied according to the Fines (Ireland) Act, 1851, Ireland. Fines in
Ireland. and any Act amending the same.

31. If any party feels aggrieved by any conviction made by a court of summary jurisdiction on determining any information under this Act, by which conviction the sum adjudged to be paid, including costs, exceeds five pounds, or the period of imprisonment adjudged exceeds one month, the party so aggrieved may appeal therefrom, subject to the conditions and regulations following : Appeal to
quarter
sessions.

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- (1.) The appeal shall be made to the next court of general or quarter sessions for the county or place in which the cause of appeal has arisen, holden not less than twenty-one days after the decision of the court from which the appeal is made:
- (2.) The appellant shall, within seven days after the cause of appeal has arisen, give notice to the other party and to the court of summary jurisdiction of his intention to appeal, and of the ground thereof :
- (3.) The appellant shall, immediately after such notice, enter into a recognizance before a justice of the peace, with two sufficient sureties, conditioned personally to try such appeal, and to abide the judgment of the court thereon, and to pay such costs as may be awarded by the court, or give such other security by deposit of money or otherwise as the justice may allow :
- (4.) Where the appellant is in custody the justice may, if he think fit, on the appellant entering into such recognizance or giving such other security as aforesaid, release him for custody :
- (5.) The court of appeal may adjourn the appeal, and upon the hearing thereof they may confirm, reverse, or modify the decision of the court of summary jurisdiction, or remit the matter to the court of summary jurisdiction with the opinion of the court of appeal thereon, or make such other order in the matter as the court thinks just. The court of appeal may also make such order as to costs to be paid by either party as the court thinks just.

Provided that in Scotland—

- (1.) This section shall not apply to any such conviction made by a sheriff ; but any party empowered to appeal as aforesaid may appeal against any such conviction made by a sheriff to the next circuit court, or where there are no circuit courts to the High Court of Justiciary at Edinburgh, in the

manner prescribed by such of the provisions of the Act of the twentieth year of the reign of King George the Second, chapter forty-three, and any Acts amending the same as relate to appeals in matters criminal and by and under the rules, limitations, conditions, and restrictions contained in the said provisions :

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- (2.) The term "entering into a recognizance before a "justice of the peace" shall mean finding caution with the clerk of the justices of the peace to the satisfaction of a justice of the peace, and the term "recognizance" shall mean bond of caution.

32. No order or conviction made in pursuance of this Act shall be quashed for want of form. Moreover no warrant of commitment or order of detention shall be held void by reason of any defect therein, provided that there is a valid conviction to maintain such warrant or order, and it is alleged in the warrant or order that the person named therein has been convicted.

Exclusion of
certiorari.

33. Any action or prosecution against any person for anything done in pursuance or execution or intended execution of this Act shall be laid and tried in the county where the thing was done, and shall be commenced within twelve months after the thing done, and not otherwise.

Limitation
of actions, &c.,
29 & 30 Vict.
c. 35, s. 42.

Notice in writing of every such action and of the cause thereof shall be given to the intended defendant one month at least before the commencement of the action.

In any such action the defendant may plead generally that the act complained of was done in pursuance or execution or intended execution of this Act, and give this Act and the special matter in evidence at any trial to be had thereupon.

The plaintiff shall not recover if tender of sufficient amends is made before action brought, or if a sufficient sum of money is paid into court after action brought, by or on behalf of the defendant.

If a verdict passes for the defendant, or the plaintiff becomes nonsuit, or discontinues the action after issue joined, or the action is on any ground dismissed, or if, on demurrer

APPENDIX.

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BILL OF 1872.

or otherwise, judgment is given against the plaintiff, the defendant shall recover his full costs, as between attorney or agent and client, and shall have the like remedy for the same as any defendant has by law for costs in other cases.

Though a verdict is given for the plaintiff, he shall not have costs against the defendant unless the judge before whom the trial is had certifies his approbation of the action.

In the application of this section to Scotland, the term "plaintiff" shall mean pursuer, and the term "defendant" shall mean defender.

Miscellaneous.

Evidence.
31 & 32 Vict.
c. 37.

34. The Documentary Evidence Act, 1868, shall apply to any certificate, declaration, regulations, or other document given, made, or approved by a Secretary of State in pursuance of this Act.

In any proceeding under this Act any report, order, certificate, or other instrument purporting to be signed by a justice, chief medical officer of a certified hospital or prison infirmary, or an inspector or assistant inspector of certified hospitals shall be receivable in evidence without proof of such signature.

Instruments
may be in
print, &c.
29 Vict. c. 35,
s. 39.

35. Any certificate, order, notice, or other instrument made or issued for the purpose of this Act, may be in writing or print, or partly in print and partly in writing.

Settlement
of child born
in certified
hospital.
32 & 33 Vict.
c. 96, s. 13.

36. In England the settlement of a child born of the body of a mother while detained in a certified hospital, shall be the same as if such hospital were a house licensed for the public reception of pregnant women under the Act of the thirteenth year of King George the Third, chapter eighty-two.

Definitions.

37. In this Act—

The term "Secretary of State" means, as to Great Britain, one of Her Majesty's Principal Secretaries of State, and as to Ireland, the Chief Secretary of the Lord Lieutenant :

- The term "sheriff," in relation to Scotland, includes a sheriff substitute : APPENDIX.
- The term "chief medical officer" means, in relation to any hospital, the principal physician or surgeon for the time being attached to, or doing duty at, the hospital, or the house surgeon or resident surgeon of the hospital, and means in relation to any prison infirmary the surgeon of the prison : MR. BRUCE'S
BILL OF 1872.
- The term "contagious disease" means venereal disease, including gonorrhœa :
- The term "keeper" in relation to any bawdy house or disorderly house has the same meaning as it has in the Act of the twenty-fifth year of the reign of King George the Second, chapter thirty-six intituled "An Act for the better preventing thefts " and robberies, and for regulating places of public " entertainment, and punishing persons keeping " disorderly houses : " 25 Geo. II. c.
36.
- The term "Summary Jurisdiction Acts" means as follows :
- As to England, the Act of the session of the eleventh and twelfth years of the reign of Her present Majesty, chapter forty-three, intituled " An Act to " facilitate the performance of the duties of justices " of the peace out of sessions within England and " Wales with respect to summary convictions and " orders," and any Acts amending the same : 11 & 12 Vict.
c. 43.
- As to Scotland, "The Summary Procedure Act, 1864 : " 27 & 28 Vict.
c. 53.
- As to Ireland, within the police district of Dublin metropolis, the Acts regulating the powers and duties of justices of the peace for such district, or of the police of such district, and elsewhere in Ireland, "The Petty Sessions (Ireland) Act, 1851," and any Act amending the same :
- The term "Vagrant Act, 1824," means the Act of the fifth year of the reign of King George the Fourth, chapter eighty-three, intituled " An Act for the " punishment of idle and disorderly persons, and " rogues and vagabonds, in that part of Great

APPENDIX.

MR. BRUCE'S
BILL OF 1872.

“ Britain called England,” and any Act amending the same :

The term “ Court of Summary Jurisdiction ” means—

In England and Ireland any justice or justices of the peace, metropolitan police magistrate, stipendiary or other magistrate, or officer, by whatever name called, to whom jurisdiction is given by the Summary Jurisdiction Acts or any Acts therein referred to.

In Scotland, any justice or justices of the peace, sheriff, or other magistrate to the proceedings before whom for the trial or prosecution of any offence, or for the recovery of any penalty under any Act of Parliament, the provisions of the Summary Jurisdiction Acts may be applied.

Repeal of
Acts in
schedule.

38. The Acts specified in the schedule to this Act are hereby repealed to the extent in the third column of that schedule mentioned.

Provided that—

- (1.) Every hospital certified under any enactment hereby repealed shall continue to be a certified hospital for the purposes of this Act for three months after the passing of this Act, unless before the expiration of such time the certificate is withdrawn, or the hospital is certified under this Act :
- (2.) Any woman detained in a certified hospital in pursuance of any enactment hereby repealed shall continue to be so detained in like manner as if she had been removed to such hospital in pursuance of this Act :
- (3.) This repeal shall not affect—
 - (a.) Anything duly done or suffered under any enactment hereby repealed ; or
 - (b.) Any right, privilege, obligation, or liability acquired, accrued, or incurred under any enactment hereby repealed ; or

- (c.) Any penalty, forfeiture, or punishment incurred in respect of any offence committed against any enactment hereby repealed ; or
- (d.) Any investigation, legal proceeding, prosecution, or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture, or punishment as aforesaid ; and any such investigation, legal proceeding, prosecution, and remedy may be carried on as if this Act had not passed.

APPENDIX.

SCHEDULE.

Acts Repealed.

Session and Chapter.	Title or Abbreviated Title.	Extent of Repeal.
24 & 25 Vict. c. 100.	An Act to Consolidate and Amend the Statute Law of England and Ireland relating to Offences against the Person.	Sections forty-nine to fifty-two both inclusive.
29 & 30 Vict. c. 35.	The Contagious Diseases Act, 1866.	The whole Act.
31 & 32 Vict. c. 80.	An Act to amend the Contagious Diseases Act, 1869.	The whole Act.
32 & 33 Vict. c. 96.	The Contagious Diseases Act, 1869.	The whole Act.

In 1875 and 1876, Repeal Bills were introduced by Sir Harcourt Johnstone, and debates of much interest and importance took place on each occasion, some parts of which have been alluded to in previous parts of this work.

ENGLISH LEGISLATION FROM A.D.
1161 UP TO THE PASSING OF THE
“CONTAGIOUS DISEASES PREVEN-
TION ACT,” OF 1864.

APPENDIX.

STATUTE OF
HENRY II.

Allusion was made in the earlier part of this Appendix to a statute of the 8th of Henry II. for the licensing of brothels in Southwark. The following are extracts from Stow's "*Survey of the City of London*," Camden's "*Britain*," Fuller's "*Church History of Britain*" and the works of other writers, giving a continuous account of the whole matter.

EXTRACT
FROM STOW'S
"SURVEY."

A Survey of the Cities of London and Westminster: Written at first in the year 1597. By John Stow, Citizen and Native of London.

Edition by John Strype: London, 1720.

Book IV. containing a particular inspection into the Ward in the Borough of Southwark: As also the Suburbs of the City; And the Liberty of the Duchy of Lancaster.

CHAP. I.—*Bridge Ward Without*.

. . . . Next, on the Bank, was sometime the *Bordells* or *Stews*, a place so called of certain stew houses privileged there, for the repair of incontinent men to the like women; of the which privilege I have read thus:

In a Parliament holden at Westminster, the eighth of Henry the Second, it was ordained by the Commons, and confirmed by the King and Lords * that divers constitutions for ever should be kept within that lordship or franchise according to the old customs that had been there used time out of mind: amongst the which these following were some, viz. :—

* The form of this legislative Act is somewhat of an anachronism.

That no stewardholder, or his wife, should let or stay any single woman to go and come freely at all times when they listed.

No stewardholder to keep any woman to board, but she to board abroad at her pleasure.

To take no more for the woman's chamber in the week than fourteen pence.

Not to keep open his doors upon the holy days.

Not to keep any single woman in his house on the holy days, but the bayliff to see them voided out of the lordship.

No single woman to be kept against her-will, that would leave her sin.

No stewardholder to receive any woman of religion or any man's wife.

No single woman to take money to lie with any man, but she may lie with him all night, till the morrow.

No man to be drawn or enticed into any stewhouse.

No stewardholder to keep any woman that hath the perilous infirmity of burning; nor to sell bread, ale, flesh, fish, wood, coal, or any victuals, &c.

These, and many more orders were to be observed, upon great pain and punishment.

I have also seen divers patents of confirmation, namely, 19 EDW. III. one dated 1345, the nineteenth of Edward the Third. Also, A.D. 1345. I find that in the fourth of Richard the Second, these stew- 4 RICH. II. houses belonging to William Walworth, then Maior of A.D. 1381. London, were farmed by Frees of Flanders, and were spoiled by Walter Tylar [Teighler] and other rebels of Kent. Notwithstanding, I find that ordinances for the same place and houses were again confirmed in the reign of Henry the Sixth, to be continued as before. Also, Robert Fabian writeth, that in the year 1506, the one and twentieth of Henry the 21 HENRY VII. Seventh, the said stewhouses in Southwark were (for a A.D. 1506. season) inhibited, and the doors closed up. But it was not long (saith he) ere the houses there were set open again, so many as were permitted for (as it was said) whereas before were eighteen houses, from thenceforth were appointed to be used but twelve only. These allowed stewhouses had signs

APPENDIX.

EXTRACT
FROM STOW'S
"SURVEY."

STATUTE OF
8 HENRY II.

APPENDIX.

EXTRACT
FROM STOW'S
"SURVEY."

THE "STEWES"
OF SOUTHWARK.

on their fronts, towards the Thames, not hanged out, but painted on the walls, as a Boar's Head, the Cross Keys, the Gun, the Castle, the Crane, the Cardinal's Hat, the Bell, the Swan, &c.* I have heard ancient men of good credit report, that these single women were forbidden the rights of the church, so long as they continued that sinful life, and were excluded from Christian burial, if they were not reconciled before their death. And, therefore, there was a plot of ground called the single woman's churchyard appointed for them, far from the Parish Church.

37 HENRY
VIII. A. D.
1546.

In the year of Christ, one thousand five hundred and forty-six, the seven and thirtieth of Henry the Eighth, this row of stews in Southwark was put down by the King's commandment, which was proclaimed by sound of trumpet, no more to be privileged and used as a common brothel, but the inhabitants of the same to keep good and honest rule as in other places of this realm. But though the sin was no longer allowed in this place, yet the same sin still remained. [Stow concludes by a short extract from a sermon of Latimer's in proof of this, and alluding to the recent act of putting down the stews. The marginal note to the whole passage is, "*English people disdains to be bawds.*"]

EXTRACT
FROM
CAMDEN'S
"BRITAIN."

Camden's "*Britain; or a Chorographical description of the most flourishing kingdoms, England, Scotland, and Ireland.*" Edition 1610. MIDDLESEX. P. 434.

After mentioning, in the Borough of Southwark, St. Thomas' Hospital and the Palace of the Bishop of Winchester, the writer goes on to say: "From which along the Tame's bank their runneth westward a continued range of dwelling houses where within our fathers' remembrance was the *Bordello* or *Lupanarie*, for so the Latine's terme those little roomes or secret chambers of harlots wherein they filthily prostitute their bodies to saile, because they after the maner of ravening she-wolves catch hold of silly wretched men and pluck them into their hooles. But these were prohibited by King Henry the Eighth, at which time England was grown to excessive lasciviousnesse and

* An allusion to such signs as these is made in "*Much Ado about Nothing*," Act i., Scene 1.

"riot; which in other nations are continued for gaine, under
 "a specious show of helping man's infirmity: Neither, of
 "these strumpets and brothel howses, do I think that this
 "place in our tongue took the name of *stews*, but of those
 "ponds or stewes which are heere for to feed pikes and
 "tenches fat and to scour them from the strong and muddy
 "fennish taste. Heere have I seen pike's panches opened
 "with a knife to shew their fatnesse; and presently the
 "wide gashes and wounds come together again by the touch
 "of tenches, and by their gluttinous slime, perfectly healed
 "up."

APPENDIX.
 EXTRACT
 FROM
 CAMDEN'S
 "BRITAIN."
 THE "STEWES"
 OF SOUTH-
 WARK.

The history of these stewes in Southwark is authenticated
 and supplemented by a number of other writers of repute.
 Thus, in his "*New History of London*" (A.D. 1773) John
 Noorthouck says that these stewes were originally "licensed and
 "regulated by the Bishops of Winchester; the constitutions
 "for the government of which were confirmed by Parliament
 "in the eighth of Henry II." Pennant, in his account of
 London (A.D. 1793) says: "Not far from these scenes was
 "the Bordello, or Stews, permitted and openly licensed
 "by government under certain laws or regulations. They
 "were farmed out. Even a Lord Mayor, Sir W. Walworth,
 "did not disdain to own them; and he rented them to the
 "*Froes*, that is, bauds of Flanders. Among other regula-
 "tions no stew holder was to admit married women; nor,
 "like pious Calvinists in Holland to this present day, were
 "they to keep open their houses on Sundays; nor were they
 "to admit any women who had on them the perilous
 "infirmity of burning, &c. These infamous houses were
 "suppressed in the reign of Henry VIII. The pretence of
 "these establishments was to prevent the debauching the
 "wives and daughters of the citizens, so that all who had
 "not the gift of continence might have places to repair to.
 "Perhaps, in days when thousands were tied up by vows of
 "celibacy, these haunts may have been necessary, for neither
 "cowl nor cope had virtue sufficient to annihilate the strongest
 "of human passions." Noorthouck notices the plundering of
 the stewes by Wat Tyler in 1381 when they were "kept by

JOHN NOOR-
 THOUCK,
 A.D. 1773.

PENNANT'S
 "LONDON,"
 A.D. 1793.

APPENDIX.

HISTORY OF
THE "STEWES"
OF
SOUTHWARK.21 HENRY
VII., A.D.
1506.

"Flemish bawds," their being shut up in 1506 (21 Henry VII.), their being re-opened but reduced from eighteen to twelve, and their being suppressed by proclamation in 1546 (37 Henry VIII.). Noorthouck adds that Walworth's successor, John Northampton, rigorously punished vice, and the clergy censured him for usurping their jurisdiction, though they themselves neglected it.

FABYAN'S
CHRONICLE.17 HENRY
VI., A.D.
1439.

According to Fabyan's *Chronicle*, neither the general laws nor the execution of them in Henry VI.'s reign were remiss in decisively punishing public acts of immorality. In the year 1439, in the month of August, in London, "where 2 "bawdes punished with werynge of raye hoodes, and after "xi days emprysonement, they were banysshed the towne "and dryuen out with moste shame." In 1473, the chronicle runs as follows :

A.D. 1473.

"William Hampton, fysshemonger (mayor), John Browne "and Thomas Bledlon (sheriffs).

"This mayer above all other corrected sore bawdes and "trumpettes, and caused theym to be ladde about the towne "w^t. raye hoodes upon theyr heddes dyuers and many and "sparyd none for mede nor for fauor that were by the law "attheynted notwythstandyng that he myght haue take XL. "lc. of reddy money to hym offerid for to haue spared 1 from "that jugement" (Fabyan's *Chronicle*, 2nd edition, 1533).

A. D. 1483.

The public penance of Jane Shore in A.D. 1483, will also be remembered. The existence and purpose of the "Stews" are recognised by Shakspere, in writing of the close of Richard II.'s reign (A.D. 1399) [*"Richard II.,"* Act v., Scene 3].

A.D. 1697.

The general attitude of the Law, the Crown and the Church towards flagitious immorality immediately after the Revolution of 1688, is disclosed in the following circular letter of the Bishop of London (H. Compton) to the Clergy of his Diocese, which is given in Malcolm's *Manners and Customs of London*, 1811.

EXTRACT
FROM
MALCOLM'S
"MANNERS
AND CUSTOMS
OF LONDON."

"Dec. 15, 1697.

"Good Brother,

"Having been informed from several hands that His

"Majesty's Injunctions of February 13th, 1689—90, have
 "not been observed of late (in such a manner at least as is
 "enjoyed); I thought it my duty to admonish you of this
 "negligence, and the rather at this time, because His Majesty
 "has declared in his speech to both Houses of Parliament
 "that, now he has leisure to be with us, one of his chief
 "cares shall be to suppress Profaneness and Immorality.
 "And would it not be a shameful reproach to us (a great
 "part of whose business it ought to be continually to watch
 "against such sins), to be found tardy in those opportunities
 "which the laws have given us to warn people of their wicked
 "courses? * * *

APPENDIX.
 MALCOLM'S
 "MANNERS
 AND CUSTOMS
 OF LONDON."
 BISHOP
 COMPTON'S
 LETTER IN
 A.D. 1697.

"Yours,

"H. LONDON."

The following account of some of the above facts, as given
 in Fuller's "*Church History*," is here appended by way of in-
 troduction to the "Argument, Pro and Con.," which follows.

FULLER'S
 "CHURCH
 HISTORY."

Church History of Britain from the Birth of Jesus Christ,
until the year MDCXLVII. Endeavoured by Thomas
 Fuller, D.D. Edition, 1837.

A.D. 1545. 37 HENRY VIII.

BOOK V. SECTION 39—41.

The Original of Stews. The Regulation of the Stews. The
Impossibility to legitimate what in itself is unlawful.

FULLER'S
 ACCOUNT OF
 THE "STEWES"
 OF
 SOUTHWARK.

At this time also, by the king's command, were the Stews
 suppressed. A line or two, I hope, will not defile our Church
 History, in the description and detestation of such filthy persons
 and practices. There stood a place on the south bank over
 against London, called "the Stews," where live fishes were
 formerly kept, there to be washed in ponds from their slime
 and muddiness, to make the more wholesome and pleasant
 food; which was the original use of these stews, and the
 proper meaning of the word. Afterwards the place was
 converted to a worse use, but still retaining its own name,
 from the scouring of fish to the defiling of men; brothel-
 houses being built there, and publicly permitted by the State.

APPENDIX.
 FULLER'S
 ACCOUNT OF
 THE STEWS OF
 SOUTHWARK.

These were sixteen in numbers, known by the several signs, whereof one was "The Cardinal's Hat"; and it is to be feared that too many of the clergy (then forbidden marriage) were too constant customers to it. Such who lived in these colleges of lust were called "single women"; and pity it was so good a name was put upon so lewd persons.

Divers constitutions were made in the eighth year of King Henry II. for the regulating of these houses; whereof may inoffensively, yea, profitably, be inserted:—1. No stew-holder should keep open his doors on the holidays, or keep any in his house on those days. 2. No single woman to be kept against her will, if out of remorse of conscience she would leave that lewd life. 3. No stew-holder to receive any man's wife, or any "woman of religion." 4. No man to be drawn or enticed into any of those houses; and the constables and bailiffs were every week to search the same. They were not to sell bread, ale, flesh, fish, wood, coal, or any victuals.

This was done, partly because they should not engross those trades, being the livelihood of more honest people; and partly lest simple chapmen, in seeking for such necessities, should be inveighed into sin. Such women, living and dying in their sinful life, were excluded Christian burials, and had a plot of ground far from the parish church appointed for them, called "the single woman's church-yard."

These cautions and constitutions could not make them who are bad in themselves to be good, though keeping some who were bad from being worse; such a toleration of sin being utterly unlawful. For though natural poisons may by art be so qualified and corrected as to make them not only not noxious, but, in some cases, as wisely applied, cordial; yet moral poisons, I mean things sinful of themselves, can never be so ordered and regulated, but that still they will remain pernicious and unlawful; the only way to order and amend them being to remove and extirpate them.

42. *Argument Pro and Con. about Stews.*

FULLER'S
 "ARGUMENT
 PRO AND
 CON."

Yet there wanted not those (better idle than so employed) who endeavoured with arguments to maintain—some (so shameless) the necessity—but more the conveniency—of such

brothel-houses. No wonder if wanton wits pleaded for wanton women. Whoredom, like the whores, was painted over with politic reasons for the permission thereof, which may easily be washed away if the following parallel be but seriously perused.

APPENDIX.

FULLER'S
"CHURCH
HISTORY."
"ARGUMENT
PRO AND
CON." AS TO
LICENSED
HOUSES.

ARGUMENT I. Man's infirmity herein, since his natural corruption, is grown so general, it is needful to connive at such houses, as a kind of remedy to prevent worse incontinency with married women; the whole land being the cleaner for the public sinks or sewer of the stews.

ANSWER. It is absurd to say, and belibelleth Divine Providence, that any thing is really needful that is not lawful. Such pretended necessity, created by bad men, must be annihilated by good laws. Let marriage run in its proper channel, being permitted to all persons; and then no need of such noisome sinks which may well be dammed up. The malady cannot be accounted a remedy; for whilst matrimony is appointed and blessed by God to cool the heat of lust, whoredom doth double the drought thereof.

ARGUMENT II. As Moses permitted divorcement to the Jews, stews may be connived at on the same account, for the hardness of man's hearts, Mark x. 5.

ANSWER. Christians ought not so much to listen to Moses' permission, as to Christ's reprehension thereof. Besides, some faults had a cover to them in the twilight of the law, which have none in the sunshine of the Gospel.

ARGUMENT III. Strange women were no strangers in Israel itself under their best kings; two of that trade, publicly known, pleaded before King Solomon, 1 Kings iii. 16; these were publicly repaired unto and known by the attire of an harlot, Prov. xii. 10.

ANSWER. Christians must conform themselves to the necessary members and commendable ornaments of the Jewish commonwealth, but not to the wens and ulcers thereof.

ARGUMENT IV. Many great families were preserved

APPENDIX.

FULLER'S
"CHURCH
HISTORY."

"ARGUMENT
PRO AND
CON." AS TO
LICENSED
HOUSES.

thereby, whose younger brethren, abstaining from marriage, did not cumber the same with numerosity of children.

ANSWER. Where harlots have preserved one house, they have destroyed an hundred. Besides, we must not do evil that good may come thereof. Nor can many children be accounted evils to men, which are blessings from God.

ARGUMENT V. Such stews are fashionable in foreign nations; yea, in Rome* itself.

ANSWER. Let the Paramount Whore tolerate whores, which, as a branch of popery, was now banished England. More honour it is for us to go before foreign nations in Reformation, than to follow them in their corruptions.

ARGUMENT VI. The suppressing of stews would not make men more chaste, but more close; not more sincerely honest, but secretly wanton. In all populous places, male incontinency will meet with a female counterpart, and so reciprocally.

ANSWER. This undeniable truth is sadly granted. Perchance there may now be more English folk adulterers, but

ATTITUDE OF
THE CHURCH
OF ROME
TOWARDS
PROSTITUTION
IN ROME.

* The Church of Rome has never actually sanctioned laws for the regulation of vice in the City of Rome, and indeed has set its face persistently against them; but a virtual and peculiarly noxious license of brothels, similar to that which the evidence produced before the English Royal Commission of 1871 proves to be accorded by the police in this country (*ante*, pp. 133—136), has traditionally existed at Rome. Dr. Chapman says (*Governmental Experiments in Controlling Prostitution*, p. 21), "that two classes of houses are familiarly recognised in Rome, *maisons de passe* and *lupanars mixtes*. These establishments are conducted in "obscurity, and of course the women who frequent them are submitted "to no kind of sanitary surveillance. The police, learning sometimes "of their existence, leave them nevertheless in some cases undisturbed "when the inhabitants of the neighbourhood make no complaint, and "when no scandal calls for repression. But the existence of these "houses is often dependent on the caprice of the lowest police officials, "whose silence is duly paid for, while their repressive rigour may be "confidently counted on by those who refuse to purchase their acquiescence. Those proprietors who are most disposed to defy the police "and escape their recognition, move their establishments frequently "from one house to another." (S. A.)

England was then an adulteress, so long as stews were openly licensed. It was a national sin, when publicly permitted, which now is but personal, though too generally committed.

Thus, chastity, by the countenance of authority, got at last a final conquest of wantonness. Indeed, formerly, in the one-and-twentieth year of Henry VII., for a time the stews were closed up, but afterwards opened again, though reduced from sixteen to twelve. But now, by the king's commandment, this regiment of sinners was totally and finally routed; the king's pleasure herein proclaimed by sound of trumpet, and their houses peopled with other inhabitants of honest conversation.

Fuller's Editor appends the following note to the Answer to the VIth Argument:—

Dr. Heylin bears very hard upon our author for his reasoning on this nauseous subject, and expresses his fear lest his "arguments will be studied and made use of when his "answers will not." In his justification, Fuller produces the following among many just observations:—"It is reported "of Zeuxis, that famous painter, that he so lively pictured a "boy with a rod in his hand, carrying a basket of grapes, "that birds (mistaking them for real ones) pecked at them; "and whilst others commended his art, he was angry with "his own workmanship, confessing that if he had made the "boy but as well as the grapes, the birds durst not adventure "at them. I have the same just cause to be offended with "my own endeavours, if the arguments against these schools "of wantonness should prove insufficient; though I am "confident that, if seriously considered, they do in their own "true weight preponderate those produced in favour of "them. However, if my well-intended pains be abused by "such who only will feed on the poisons, wholly neglecting "the antidotes, their destruction is of themselves, and I can "wash my hands of any fault therein."

The history of the Licensing of the Stews in Southwark between the years A.D. 1161 and A.D. 1545, marks, in how-

APPENDIX.

FULLER'S
"CHURCH
HISTORY.""ARGUMENT
PRO AND
CON." AS TO
LICENSED
HOUSES.FULLER'S
JUSTIFICATION
FOR TREATING
THE SUBJECT.

APPENDIX.

PURITAN
LEGISLATION
IN 1650.

ACCOUNT OF
THE ACT OF
THE 10TH
MAY, 1650.

ever limited an area, a distinct phase of policy in relation to the general subject. The extract from Fuller shows that, at the time he wrote, in the second and third quarters of the 17th century, men's minds were beginning to be agitated by the grave moral difficulties which beset the licensing system. Soon after the death of Charles I., the supremacy of the Puritans secured the passing of a severe enactment "for suppressing the detestable sins of incest, adultery, and "fornication." The Act was finally passed, after some debate and amendments, on the 10th May, 1650. Incest and adultery were to be generally punished with death. In case of fornication, both parties were to be punished with three months' imprisonment without bail, and were to give security for good behaviour for a year. Every "common "bawd, be it man or woman" or person "wittingly keeping a "brothel or bawdy house," for the first offence was to be openly whipped, set in the pillory, and then marked with a hot iron in the forehead with a B; also to be committed to the House of Correction for three years without bail, and until sufficient security be given for good behaviour during life. The persons a second time found guilty of all the last recited offences were to suffer death. All prosecutions were to be commenced within twelve months (*Parliamentary History of England*, 2nd ed., vol. xix., p. 259, *Scobell's Acts*, Ed. 1658, p. 121).

WHITELOCK'S
"MEMO-
RIALS."

Mr. Whitelock, in his "*Memorials*" (ed. 1732, p. 435), in noticing the passing of this enactment, adds a significant fact, which shows that the uselessness of penally repressive measures was recognized at the time even within the confines of Parliament itself, and which illustrated the prevalence of the rival views exhibited in Fuller's "*Arguments*." Mr. Whitelock says that "Mr. Henry Martin declared his "opinion that the severity of the punishment by this Act "being death would cause those sins to be more frequently "committed, because people would be more cautious in com- "mitting them for fear of punishment; and, being undis- "covered, would be emboldened the more in the commitment "of them."

From the date of the impotent effort of this Act of 1650, a hundred years passed before the next phase of legislation presented itself, and which extends from the year 1752

almost to the present day. In 1752, 1755, 1763, and 1818 were passed a series of statutes* (25 Geo. II. c. 36, 28 Geo. II. c. 18, 3 Geo. III. c. 114, and 58 Geo. III. c. 70) "in order to encourage prosecutions against persons keeping bawdy-houses, gaming-houses, and other disorderly houses." Any two rate-payers might prosecute, and upon a conviction, each of them was entitled "to have ten pounds paid to him by the overseer of the parish." The most recent general statute of this class is the "Towns Police Clauses Act" of 1847, 10 & 11 Vict. c. 89, by which persons keeping houses or rooms for the sale or consumption of refreshments, and knowingly suffering "common prostitutes" or reputed thieves to assemble and continue in the premises, are made liable to a penalty not exceeding five pounds. Of course none of these statutes supersede the rules of common law by which the keeping of a bawdy-house, and even the frequenting of it, is a common nuisance, and may be the subject of an indictment (Burn's "Justice," Maule's edition, "*Disorderly House*").

APPENDIX.
PROSECUTION
OF BROTHEL-
KEEPERS.
LEGISLATION
FROM 1752
TO 1818.

TOWNS POLICE
CLAUSES ACT,
10 & 11 VICT.
C. 89.

A.D. 1847.

In the year 1844, about a hundred years after the passing of the first statute of George II.'s reign, and three years before the passing of the Towns' Clauses Police Act, a series of debates took place in the House of Lords on a Bill introduced by the Bishop of Exeter (Dr. H. Philpotts) "for the more effectual suppression of prostitution, and trading in seduction and prostitution." This debate is of considerable historical importance in the chain of legislation, as it seems to mark the earliest moment at which the question of the propriety of a licensing system incidentally came under the distinct cognizance of the legislature. The debates furnish good evidence of the well-known statesmanlike capacity of Dr. Philpotts, and his exact appreciation of all the issues at stake.

A.D. 1844.
BISHOP
PHILPOTTS'
BILL.

The Bill was introduced on May 17th, 1844, and only withdrawn at the instance of the Duke of Wellington, a Member of the Cabinet, on the motion for a third reading on July 9th. In introducing the Bill the BISHOP OF EXETER

* See p. 127.

APPENDIX.

BISHOP
PHILPOTTS'
BILL IN 1844.
DEBATES IN
HOUSE OF
LORDS.

presented a petition on which it was founded, and said "he
"had been in communication with the petitioners with a
"view of inducing them to content themselves with embody-
"ing in a Bill such provisions as would really be practicable
"without violating any principle of law, without undue
"inquisition into the habits of individuals, and, in short,
"without incurring the danger of encouraging vice by its
"public exposure."

The EARL OF MOUNTCASHELL said that "no legislative
"measure with relation to that subject had been adopted
"since the reign of George II., and the present law was so
"imperfect that it was a matter of difficulty to sustain a
"prosecution even in the most flagrant cases."

On the motion for the third reading the EARL OF GALLO-
WAY protested against the Bill being withdrawn, and said
"there was a clause intended to provide for the suppression
"of a system which was emphatically called in the title of
"the Bill, the trading in seduction and prostitution; a system
"which he lamented to state had been proved to be carried
"to a frightful extent of organization, both in our large
"towns and in the country, by which unprincipled parties
"pandered to the bad passions of their fellow creatures by
"entrapping young women to their ruin, the dupes of every
"species of stratagem and combination; and often the
"merest children fall victims, and their own families and
"that of the families with which they were connected were
"blasted for ever."

POLICY OF
BISHOP
PHILPOTTS.

On the Bill passing through Committee on June 14th, the
BISHOP OF EXETER indicated his line of policy as purposing
to grapple with the real evils, so far as legislation could
grapple with them, and yet being clearly distinguishable
from the policy of attempted penal repressions, and from
that of a licensing system. He said "that he had stated
"that he did not propose to legislate against prostitution,
"but it must not be considered that he declined to do so
"because he thought prostitution to be necessary—no such
"thing; he should blush for himself if he dared to get up
"in a British House of Parliament and say he thought

"prostitution necessary, and it was mere cant in some
 "persons to say that it was necessary in order to prevent
 "greater evils from prevailing; it was a libel upon the
 "people of England and against God, Who never would
 "have fixed His canon against the thing if it were a
 "necessary thing. It might be said that where there were
 "great masses of population, it was necessary there should
 "be prostitutes, but why in great masses more than in the
 "rural districts? In the country men passed their lives
 "without seeing prostitutes. He did not mean to say that
 "every woman was wholly modest, but this he would say,
 "that in the rural districts men grew up to maturity and
 "were gathered to their fathers without seeing prostitution."

APPENDIX.
 BISHOP
 PHILPOTTS ON
 THE ALLEGED
 NECESSITY OF
 PROSTITUTION.

It is an instructive historical study to contrast the course
 and spirit of these debates as governed by such speeches as
 the above, and the debate of 1868 on the Contagious
 Diseases Acts, as conducted under the influences of the
 official military and naval authorities (see *ante*, p. 463—468).

SUMMARY VIEW OF ENGLISH LEGISLATION.

THE following is a summary chronological view of the chief legislative steps that have been taken or attempted in England for the direct prohibition, regulation, or licensing of sexual vice. Only the statutes marked with a † are in force. The rules of the Common Law will be found on pp. 127, 128.

		A. D.
Act for Licensing Stews in Southwark (see p. 515)	8 Henry II.	1161
Act repealing Act of Henry II. Fresh license granted (presumably) by the Crown to 12 out of the 18 Stews	21 Henry VII.	1506
Proclamation abolishing the Stews (see p. 514)	37 Henry VIII.	1545
Statute of Interregnum "for repressing the detestable sins "of Incest, Adultery, and Fornication" (see p. 524)	Interregnum.	1650
Act "for encouraging prosecutions against persons keep- ing bawdy-houses," &c. (see p. 127)	25 Geo. II. c. 36.	1752
† Act making the last mentioned Act perpetual	28 Geo. II. c. 18.	1755
† Act declaring the penalties under Act 28 Geo. II. c. 18	3 Geo. III. c. 114.	1763
† Act enabling overseers to prosecute under 28 Geo. II. c. 18	58 Geo. III. c. 70.	1818
† Act punishing "Common Prostitutes for behaving in a "riotous or indecent manner" in public thorough- fares, &c., &c. (Vagrant Act) (see p. 497)	5 Geo. IV. c. 83.	1824
<i>Bill of the Bishop of Exeter's "for more effectual suppres- sion of Brothels and Trading in Seduction and Pros- titution" (see p. 525)</i>	1844
† Act imposing penalties on publicans suffering "com- mon prostitutes to assemble and continue in pre- mises," &c., &c. (Towns Police Clauses Act) see p. 127	10 & 11 Vict. c. 89.	1847
Contagious Diseases Prevention Act (p. 429) [To con- tinue in force for three years].	27 & 28 Vict. c. 85.	1864
† Contagious Diseases Act, 1866 (p. 344)	29 Vict. c. 35.	1866
<i>Marquis of Townshend's Bill for extending 29 Vict. c. 39, to the Metropolis and Corporate Boroughs (pp. 469, 470)</i>	1868
† Act explanatory of 29 Vict. c. 35 (p. 470)	31 & 32 Vict. c. 80.	1868
† Contagious Diseases Act, 1869 (p. 369)	32 & 33 Vict. c. 96.	1869
<i>Bill of Mr. W. Fowler's for Repealing Contagious Diseases Acts</i>	33 & 34 Vict.	1870
<i>"Contagious Diseases and Protection of Women" Bill of Mr. Bruce's (p. 496)</i>	35 & 36 Vict.	1872
<i>Repeal Bill of Sir Harcourt Johnstone's</i>	1875
<i>Do. do. do.</i>	1876

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THE END.

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